

STATE OF CALIFORNIA

MEETING OF THE  
CALIFORNIA INSPECTION & MAINTENANCE REVIEW COMMITTEE

Webcast

Tuesday, June 22, 2004  
California Air Resources Board  
1001 I Street, Second Floor  
Central Valley Auditorium  
Sacramento, California

**MEMBERS PRESENT:**

VICTOR WEISSER, CHAIR  
NORM COVELL, VICE-CHAIR  
DENNIS DECOTA  
JOHN HISSERICH  
BRUCE HOTCHKISS  
GIDEON KRACOV  
JUDE LAMARE  
ROBERT PEARMAN  
JEFFREY WILLIAMS

**ALSO PRESENT:**

ROCKY CARLISLE, Executive Officer  
LYNN FORSYTH, Administrative Staff

**INDEX PAGE**

Call to Order .....	3
Approval of May Minutes .....	14
Executive Officer's Activity Report .....	19
Discussion of Proposed Program Changes .....	28
<u>AFTERNOON SESSION</u> .....	104
Motion to Send Letter regarding Proposed Program Changes .....	104
Smog Check Program Evaluation .....	123
Subcommittee Reports .....	160
Public Comments .....	169
Adjournment .....	187
Transcriber's Certification .....	188

## P R O C E E D I N G S

CHAIR WEISSER: This is indeed the June 22nd meeting of the Inspection and Maintenance Review Committee. I want to welcome you to this wonderful facility provided by Cal/EPA and particularly thank the folks at the Air Resources Board for arranging for it. We are going to be asking for oxygen masks to be delivered for the committee members as this is much higher than we're used to dealing with. We will try to maintain our normal order and decorum and way of doing things, but I do want to point out a few changes.

First I want to alert and in fact warn our committee members that these are very sensitive mics and when they're finished speaking it would be a good idea to press the button again in order to turn the green light out.

Secondly, Sue Wyman of the Air Resources Board, this person to my right, your left, has given me a list of housekeeping things that I think might be of import and interest to you, so I'm going to read these before we get started.

"Good morning. My name is Sue Wyman and I work at the Air Resources Board. I want to go over some of the logistics with you this morning.

"We are here in the Central Valley Auditorium. The restrooms are out the back door and then turn to the left.

"If it goes off, the emergency alarm, on this day of the IMRC, and those folks that are interested in participating can do so in two ways. First of all, there's a homepage at [www.arb.ca.gov](http://www.arb.ca.gov). When you get to that homepage, go to the icon that says "Webcast" and you'll see a notice regarding the meeting today.

"The other link is through Cal/EPA and it's through [www.calepa.ca.gov](http://www.calepa.ca.gov). Locate the icon that says "Broadcast," click on it and look at today's meeting.

"We're also teleconferencing this meeting. We've provided an 800 number for folks to call in and participate. That number is 800 857-4924. The passcode is "IMRC" and the team leader, once again, is Sue Wyman.

"Any time that there are any technical difficulties with either aspect of this operation, contact Sue on 916 296-3129."

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Okay. With that preliminary taken care of, what I'd like to do is ask the committee members to introduce themselves. I'll start off.

I'm Vic Weisser. I work for the California Council for Environmental and Economic Balance. I'm the chair of this committee. I was appointed by the Governor about a year and a half ago. We'll start the rest of the introductions starting from the left and proceeding onward.

MEMBER HISSERICH: I'm John Hisserich, I work for the University of Southern California, appointed about six months ago, I think, or seven months ago by the previous Governor, and look forward to hearing today's discussion.

MEMBER WILLIAMS: I'm Jeffrey Williams, I'm a professor at UC Davis and I've been on this committee for a year and a half.

MEMBER KRACOV: Good morning, my name is Gideon Kracov, I'm a deputy Los Angeles city attorney and a public appointee of the previous Governor.

MEMBER DECOTA: Good morning, my name is Dennis DeCota, I'm the executive director of California Service Station and Automotive Repair

Association, appointed by Senate appointee and represent industry.

VICE-CHAIR COVELL: My name's Norm Covell, I'm an air pollution control officer for the Sacramento Metropolitan Air Quality Management District, a Governor's appointee to this committee and I've been on the committee (inaudible) since 1984.

MEMBER PEARMAN: Good morning, Robert Pearman, an attorney with Robinson-Pearman, a southern California law firm and a gubernatorial appointee and a public member.

MEMBER HOTCHKISS: I'm Bruce Hotchkiss, I'm an employee of the Department of Consumer Affairs. I was appointed by the former Speaker of the Assembly over two years ago.

CHAIR WEISSER: Very good, we all remembered our names in these esteemed surroundings.

I notice in the back of the room a guest of some great honor who I would now like to introduce to the audience and invite up to the podium, and I'm speaking of Mr. Terry Tamminen, who is the Secretary of the California Environmental Protection Agency, and Terry is here to perform what I think are one of the more important and glorious tasks of his grand office.

Terry is a life-long environmentalist, great environmental credentials, and has also showed himself to be a team leader of women and men as we march toward meeting California's environmental goals. He's also a Shakespearean authority of some note, and perhaps you might honor us with an appropriate quote.

MR. TAMMINEN: Well, Vic, thank you very much for that kind introduction and it's great to see some friends, make some new acquaintances, like my good friend Gideon here, and it's good to see you, especially after missing you last week. I'm over my food poisoning, I'm glad to relate. But in any event, yes, I do have a very pleasant duty here today.

First of all, thank you for letting me crash the party and come and make this statement. This is a very pleasant duty to recognize partnerships and to recognize people who find unique ways to work together. I think that's been one of the hallmarks of the Schwarzenegger Administration is to try to find new ways (inaudible) to benefit and help the environment.

With our assistance, Tijuana, Mexico, is in the process of developing a Smog Check Program, and we're very excited about that. They've gone through

the technical assistance that was provided by a partnership between Cal/EPA and the Bureau of Automotive Repair, a special agreement of cooperation that was signed with Mexico in 2001.

There's over 96 million cars and trucks that cross the California/Baja border every year, and the sale of close to 50,000 used cars at Tijuana car dealers each year, and so helping Tijuana develop its own Smog Check Program is an extremely important step forward for air quality in the region.

Being an optimist, I hope that what is taking place in Tijuana occurs elsewhere across the US/Mexico border as well, and I really see great value, as I've said, in this Cal/EPA and Bureau of Automotive Repair partnership that has been established and I think there's a lot more we can do going forward. We make a great team and look forward to continuing to work together to improve air quality in the border region.

But in particular today the reason I stepped forward in front of this esteemed panel is I want to thank Gary Hunter for working with my staff to provide Smog Check assistance to Tijuana, and on behalf of



Cal/EPA – is he here, Gary? Come up here so I can shake your hand in front of the webcam.

On behalf of Cal/EPA I certainly appreciate his hard work on this project, his expertise in Smog Check technology which made this possible. And he's decided to retire June 30th. And you're shaking your head. You might still be able to talk him out of it and get him back on some kind of a lend/lease program, but appreciate his efforts and contribution to this project and I want to present him with the Certificate of Commendation and just say thank you truly from not only this Administration and I know from everyone here in this room, but from our future generations, Gary, thank you very much.

[applause.]

CHAIR WEISSER: Gary, how long have you been in state service and how long have you worked for the bureau?

MR. HUNTER: I've worked for the State of California since – about 15 years with the bureau and 9 years with the Air Board, and July 1st will be exactly 4 years since I came back to the Bureau of Automotive Repair. I think it's term limit.

Pardon me, I have a hard time hearing. I thought (inaudible) or something when I heard my name. I'm really touched by this presentation and honored to accept it on behalf of the Bureau of Automotive Repair and (inaudible). Thank you very much.

CHAIR WEISSER: Thank you, Gary. Hang on for a second. Vice-chair Covell.

VICE-CHAIR COVELL: Thank you. Yeah, Gary, I just want to offer my congratulations to you for a fantastic career. I've got a black-and-white picture of you and I cutting the birthday cake celebrating the first year of Smog Check in 1985. I think you were the region director for the program at that time. It's been a pleasure and certainly a benefit to this program to have you involved in it, the intentions that you've had for this program for cleaning up the fleet in California, I don't think it's been surpassed by anybody. You're going to be missed and I certainly wish you well in your retirement.

CHAIR WEISSER: I would add the warm thanks of the committee and the folks in the audience who you've worked with over the years, and in fact the people of the State of California for the kind of

public service that during your career you put in  
(inaudible).

There is another opportunity to congratulate someone who has put in more than their fair share in their career in public service, and this gentleman's career started when working in government was a positive thing. Public service was something to be honored, and he continued making contributions to the public in a variety of capacities for many years, during even the darkest years when government became a bad thing and up until the day he will retire, and I believe after he retires, I know this guy will continue to make a substantial contribution to improve the quality of life for all Californians, and I refer, of course, to our vice-chair Norm Covell, who at the end of July will be at last retiring, over the objections of not only his staff and the folks that he works with here, but I understand friends and family, they don't want to see you quite as much as they will in the future and they've asked him to continue to work for the public good.

There's little, Norm, that we can do to adequately honor the contributions you've made to not just the Sacramento region but the State of California

as a whole in your career. You're seen as a resource by all stakeholders involved in our quest for cleaner air. The environmental community, the business community and other regulators honor you, respect you and trust your judgment.

On behalf of this committee I want to present you with this plaque which reads, "In recognition of your creative and tireless service on behalf of the people of California as a member of the IMRC, we say you have been an invaluable member and will be greatly missed. Best wishes from the committee members this day in June, 2004."

Norm.

VICE-CHAIR COVELL: Thank you.

[applause]

VICE-CHAIR COVELL: Well, thank you, Vic and fellow members of the committee, I appreciate this very much. I'm not going to say that it's always been fun, because nobody would believe that. We've gone through some frustrating times together in the early years of the program. (Inaudible) periodically and I think just in the nature of what we're trying to do here.

This is an important program. I continue to believe that the Smog Check Program for the state still is ranked among the top two or three on the most effective strategies for getting the dirty air cleaned up here in the state. The fleet, both on and off-road, continues to be the number one target of anybody working in the program throughout the State of California. We've got to continue to work together and find innovative ways to make the program more efficient and to clean up the vehicles that are out there and to have durability, and I'm talking beyond the (inaudible) that create the majority of the problem that clearly exists today.

It's a tough job, not made easier of course by the new EPA standards for (inaudible) levels (inaudible) and we will just now need to develop strategies for meeting those new health-based standards. The plan from our district is in 2007 with a 2013 attainment date.

There's a lot of work to be done. There are aspects of this that I'm certainly going to miss. (Inaudible) in the future. We'll look forward to that if it happens. Thank you all for this recognition, I appreciate it very much.

CHAIR WEISSER: Thank you, Norm.

We're about to move into the formal portion of the meeting, which we will be in for the rest of the day, and as you know, this meeting is going to be used from the public and other interested stakeholders into the recently released Bureau of Automotive Repair and Air Resources Board report examining the Smog Check Program. Our intention at this point is to have this meeting to receive input as the committee begins its analysis of that report and does its review of other ways that we might be able to identify that might improve the Smog Check Program.

Our intention is later in the year to publish a draft report, or at least an outline of where our various subcommittees who are looking at various parts of the program are doing, and then to invite once more through a public session such as this feedback on where we stand and where the public and others might suggest that we look in order to fully inform ourselves as we develop our report. The Air Resources Board is also using this process as part of their public hearing for the finalization and submittal of this report to the Legislature and the Administration.

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— o0o —

The first order of business is to approve the minutes of the meeting of May 17th, 2004. As you'll remember, I was unable to be here during that meeting due to a death in my family, and therefore I will have to have someone [interference].

Member Jude Lamare has seconded. Is there any discussion among the members of the committee? Hearing none, I do see a hand in the audience who would like to discuss it. Mr. Peters, would you approach the podium? The podium on that side, Mr. Peters.

We'll use our regular system of providing three minutes for each speaker, upon which a light will go off, a bell will go off and an electronic cattle prod will be released to spur the speakers along to allow other people in the audience to speak.

If following everyone's turn the first time through there remains additional time, people who have more to say will be invited to come back up as long as we can keep to the schedule of today's meeting.

Charlie?

MR. PETERS: Mr. Chairman, I very much appreciate the opportunity to participate today in

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this meeting (inaudible). I'd like to comment on the meeting minutes and ask for consideration of a little bit more detail (inaudible). Specifically, there was an indication (inaudible) California asking about the number of cars that actually (inaudible), data and information concerning higher failing rates and failing by larger amounts result (inaudible) the program. (Inaudible) for the committee to look at that.

The information wasn't provided at that time but that information was made available immediately, and I asked if I could get that when the committee got that, and I have not received anything and I don't know if the committee has received anything, but that is a critical issue for the committee to look at and important that it be part of the minutes (inaudible).

CHAIR WEISSER: Thank you, Mr. Peters. I won't address the specific question that you raised associated with the last meeting, but I would like to address the issue of minutes.

We've determined that an approach of doing summary minutes is the most efficient way to communicate the business of the committee in an overview sense. For those people who have an interest



to delve deeper into the workings of our particular committee meetings, we do maintain the process of getting a full transcript from each and every meeting. We think that would be a better way to ensure that we don't make an error in picking and choosing those particular things that we choose to report in more detail.

In terms of your particular reference to the question that came up last time, I'm going to have to defer making any comment and only assume that that information is being either tracked down through the able efforts of our executive officer Rocky Carlisle and will become part of what we look at through our evaluation of the Smog Check Program.

Is that correct, Mr. Carlisle?

MR. CARLISLE: Yes, Mr. Chairman, we've been trying to put together a number of questions for the Bureau of Automotive Repair, but we didn't want it to be piecemeal, we wanted a full set of questions so we could make the best use of time.

CHAIR WEISSER: That sounds pretty reasonable.

MR. PETERS: If I could quickly respond to that, Mr. Chairman?

CHAIR WEISSER: If you could give Mr. Peters 30 seconds more.

MR. PETERS: I thank you, Mr. Chairman. If I could quickly respond to that, I believe they indicated that they were planning to put out a full copy of the meeting minutes on the website so public people could review that and see what was actually going on, and I'm not aware that that's been accomplished yet and that that's still the policy (inaudible).

CHAIR WEISSER: Thank you, Charlie.

Rocky, are there plans to put the transcripts up on the website?

MR. CARLISLE: Yes. One of the problems has been converting the entire transcript into PDF format. I've done it a couple of times and it's been corrupted, but I could put it up on Word but (inaudible).

CHAIR WEISSER: I would urge that in fact you do so rather than waiting for the PDF program to rationalize itself. Let's get something up. You may have to break it up into subdocuments because it will be such a large document in order to ease downloading,

but let's try to get those up as soon as possible onto the website.

Mr. Trimlett.

And for folks who are making comments here and for those who will be making comments later or by phone or by Internet e-mail, please identify yourself prior to making comments. Of course, if you sign your e-mails that would be helpful so we know who we're talking to.

Mr. Trimlett.

MR. TRIMLETT: Thank you. Len Trimlett, [www.smogrfg.com](http://www.smogrfg.com). I wish the record to be updated to reflect that I sent a letter to the I&M Committee and to CARB asking some serious questions about how test-only versus test-and-repair, what is this accomplishing? I still expect answers back, it's an open issue from last time. CARB was prepared to be coming to this meeting with answers to that question. I'm still looking for that answer. I will address my questions at the appropriate time as it comes in this program. Thank you.

CHAIR WEISSER: Thank you, Len. Everybody on this committee was sent a copy of your letter by our able, effective and excellent staff. We've had a

chance to look at it and we do expect to review the issues that you've raised in your letter as part of our subcommittee and committee work. We have not yet received responses to many of the issues that you've raised, but I can assure you that your questions will be addressed as best we can in our analysis. Thank you.

MR. TRIMLETT: That's what I'm asking for. Thank you.

CHAIR WEISSER: Are there any further comments from the audience? Seeing no hands waiving, are there any comments from anyone on the phones or the Internet? The ether is empty, so then we will proceed to a vote on the motion to adopt the minutes of the last meeting. All in favor please signify by saying aye.

IN UNISON: Aye.

CHAIR WEISSER: All opposed? Any opposed, any abstaining? The minutes are adopted unanimously.

— o0o —

We'll now move to a brief report from our executive officer over activities of note that he's been involved in since our last meeting. I want to caution both folks in the audience and those on the

web and conference call that what Rocky Carlisle, our able executive officer, will talk about is a mere fraction of the work that he does through the year, through the weeks, through the days in between meetings. He's just trying to highlight for us some of the things that we might not be aware of that he's been involved in, or other issues of note.

MR. CARLISLE: For example, (inaudible) mailed about 8,000 notices to all Smog Check stations. To date we've received three comments on the program evaluation report and we've also received fifteen additional names from interested parties.

The Air Resources Board on June 10th sent us the technical resource document that was put together to support the program evaluation. It has now been placed on the website so anybody can look at that if you like.

We have received some program evaluation comments from shop owners, consumers and other interested parties. In particular, there was one from Mr. Doug Lawson, and he's requested specific data calculation from ARB or BAR and we'll make that request when we make a formal request in the next few weeks.

At the last meeting there was concern by Mr. Peters that there was a lot of U-Haul vehicles in the Bay Area that have local phone numbers on them but they have Arizona plates. And when I researched that issue it turns out those are registered legally through an International Registration Plan, and the IRP is a registration reciprocity agreement that is an agreement among other states and (inaudible) Canada, and essentially companies can register their vehicles that are intended for use in two or more states, and they only pay an apportioned mileage for the entire fleet. To date and according to the DMV, there's approximately 500,000 of these vehicles registered in the State of California. They pay on average \$60 million annually. However, these vehicles are exempt from the Smog Check Program, but most of them are diesels. They're estimating at this point about 10 percent are gasoline powered, but they are going to send me data to support that.

There was another question about the effect of the idle test being added to the ASM test, asked by Mr. DeCota, and ARB and BAR are both evaluating data associated with that, and hopefully by the end of this month we'll have a report from them on that issue.

There's other data that's requested from ARB and BAR, but we haven't made a formal request because, as I mentioned earlier, we're trying to get everything together from the subcommittees so we can make one formal request of the various agencies.

CHAIR WEISSER: Rocky, let me interject at this point. Does that then place a burden or responsibility on the part of our working subcommittees to very quickly do the sort of initial analysis to stimulate their questions so we can batch process the questions that they might have also?

MR. CARLISLE: Yeah, there's been a (inaudible) so far, and so I'm going to be finalizing the questions from the subcommittees and submitting them to them for final approval.

Other information I requested from the Franchise Tax Board regarding the (inaudible) DMV. That's forthcoming. And also some information from the California Highway Patrol with regard to 27156 and 27153 violations, which are tampered systems and also smoking vehicles (inaudible). So that will be forthcoming.

I got information, in fact this morning I received a call from DCA budgets that the information

requested by the subcommittee on the BAR budget is ready to be picked up and they have that information including an analysis of the program.

We also have a consumer survey that Jude Lamare and Paul Arney are working on, and we're waiting for one more bid on the contract and then we're going to be meeting with the subcommittee as well as BAR to finalize that before it goes forward.

And the last thing I might add is some legislation in your packet, there's a number of things being put to the Legislature. 2683, the 30-year rolling window (inaudible). And another bill (inaudible) this committee and to the industry at large is 2939 which exempts fifth and sixth year.

CHAIR WEISSER: For the benefit of the committee could you describe your understanding of what that latest bill does?

MR. CARLISLE: The latest bill, 2939 basically exempts the fifth and sixth model year from the biennial inspection. And I know the ARB is looking at calculations from (inaudible) other vehicles that may impact, but I haven't received that data yet.



CHAIR WEISSER: Great. Are there any questions from any of the committee members? Any comments from the audience? Start with Mr. Armstrong.

MR. ARMSTRONG: Yes, my name is Larry Armstrong. I'm a little bit confused by the six-year bill that's been proposed. I had thought that the I&M Review Committee had expressed its desire that those vehicles remain in the program. I would certainly hope that the I&M Review Committee would make the effort to ask the Governor and the Legislature to keep those vehicles into the program and keep some consistency with what's going on here as well (inaudible). Thank you.

CHAIR WEISSER: Thank you, Mr. Armstrong.  
Mr. Peters.

MR. PETERS: Thank you, Mr. Chairman. I'm Charlie Peters, Clean Air Performance Professionals, we're here representing motorists. A couple of comments by Mr. Carlisle that was of interest to me, and the issue of U-Haul and the indication of there being 500,000 in California and that some 10 percent of them are gasoline powered. That's an interesting statistic that I'd certainly like to see some data on. And if there's 50,000 of those vehicles, how many

100,000 additional vehicles are playing basically the same type of game?

It's been indicated (inaudible) take advantage of (inaudible) and all the opportunities so we have 50,000 light and medium duty vehicles running around the State of California running on gasoline that does not have to get a Smog Check, doesn't have to be (inaudible) not required to meet any standards. Is it appropriate for the committee to consider the possibility of suggesting that there might some way to incorporate them into the program, whether they're (inaudible) or not, whether they're (inaudible) California registered vehicles. Just the issue of the inspection of the vehicles might be a good consideration by the committee that maybe the Legislature would like to consider the additional reductions that could be gained by somehow incorporating those vehicles.

The other issue is the year five and six being taken out and that this is a great deal and it's going to clean up the air and is benefit for motorists. I find that very interesting when you take into account that the Governors in the last few years have trimmed hundreds of millions of dollars from the

Bureau of Automotive Repair's budget that generated out of the (inaudible) into the four-year program, so we put that in the budget (inaudible) the budget, so now we've doubled the amount of money and increased the time by a third. Looks to me just like another means of taxing the motorist for the benefit of the government and for the benefit of money to spend on (inaudible) programs and possibly corporate welfare, I would call taxing the motorist under the guise of clean air (inaudible) budget.

CHAIR WEISSER: Thank you, Mr. Peters. Just as point of clarity, one of our subcommittees will be looking into the fiscal side of the issues associated with the Smog Check Program to try to find what monies are going in and where they're going. I know as a matter of statute that funds that are borrowed from special funds such as the monies that are collected through the Smog Check Program and then used in the General Fund, which has occurred in a couple of years, now must be paid back with appropriate interest. What we want to do is track the money to see how they're being tracked and become more comfortable with that. We'll talk a bit later I think about the fifth and six years [interference] issues.

VICE-CHAIR COVELL: I guess this should be directed to Rocky. I think if we try to find out more about the profile of those U-Haul rental units, I guess it would be important to know, if 10 percent of them are gasoline fueled, how many of that 10 percent, how many of them are within the one-to-four-year exemption, you know, in terms of age so that if we went after them would we get them anyway? (inaudible) to be exempted from the program as it would to squeeze a bad orange. So is it possible to collect a profile so we can finally get some answers to this?

MR. CARLISLE: (Inaudible). One issue, however, in talking with legal counsel, it may be prohibitive to require them to do Smog Check since they fall under a federal program, so we may be barred from requiring a Smog Check on those vehicles.

CHAIR WEISSER: Excuse me. They fall under a federal program?

MR. CARLISLE: Well, the reciprocity agreement.

CHAIR WEISSER: Reciprocity of licenses.

MR. CARLISLE: Yes.

CHAIR WEISSER: Okay, thank you.

Mr. Trimlett.

MR. TRIMLETT: Len Trimlett, smogrfg.com. I agree with everything that Charlie has said, but I think it is understated. Not only do we have U-Haul, we have Penske, Ryder. Every single airport rental car up and down the state, if you look at those vehicles, many of them are out-of-state registration. It's a bigger issue than just U-Haul. I think you need to look at it more. I'd like to know how that reciprocity agreement works in terms of the cars going in and out of state.

CHAIR WEISSER: Thank you. Mr. Randy Ward in the back.

MR. WARD: Randall Ward, (inaudible). Mr. Chairman, are you planning on referring to the legislative issues that Mr. Carlisle had discussed and other issues surrounding the exemption of the fifth and sixth model year?

CHAIR WEISSER: I do believe that we will have discussion on that, I'm not sure precisely when. I'd like to ask the other members' perspectives as to when would be the best time for us to deal with that. I know it's an issue of great importance to the industry and (inaudible).

MR. WARD: It's particularly important and the timing is particularly important (inaudible) make some records for the record now (inaudible).

— oOo —

CHAIR WEISSER: Randy, I think we should — and committee members, I think we need to address this issue now. We need to talk about it now and deal with it as best we can within the confines of this meeting. I don't believe waiting till next month is a particularly efficacious way of dealing with it considering the timing of the budget process, so if there are comments to be made, I think we should do them now. Does anyone disagree with me? Okay.

So Randy, if you want to start us off with your thoughts on it, at least as they exist today. I know you're not fully prepared, but I'd like for us to hear what you and others in the audience have to say as well as the members of this committee.

MR. WARD: Okay. Well, (inaudible) in the Legislature (inaudible).

The exemption of the fifth and sixth model year as well as the elimination of change of ownership registration for vehicles four years and newer (inaudible) than the exemption of the fifth and sixth

model year and the elimination of the change of ownership registration for four years and newer.

And certainly (inaudible) represent the test-only community, but that community has enjoyed a symbiotic relationship with the state or an arms-length relationship (inaudible) depends on the state to provide vehicles for them to maintain economic viability. We're reducing the number of vehicles by a significant number with that exemption as well as the elimination of the change of ownership registration. This barely not even a year after the implementation of the program in the Bay Area, which at least 140 test-onlys and I don't know how many of Dennis's members bought the new equipment to be able to (inaudible) BAR97, but that's certainly a consideration. This equipment is sophisticated equipment that's going to protect consumers, protect the air, and people in good faith invested money and now they're worried about their business and their business clients, if you will, if you take it in the context of (inaudible).

In addition to that, the older cars, the 30-year rolling exemption which this committee has taken a very firm position on, those cars (inaudible)

and it seems (inaudible) to me that the newer cars that are cleaner are paying more money than are the exempt cars for the purposes of enjoying not having to receive a biennial Smog Check.

In addition to that, one of those recommendations that came out of this evaluation that I'd presume this committee would embrace would be the annual Smog Check of certain vehicles either based on age or mileage. The discussion in the Legislature is particularly timely, (inaudible), and now is the time to take advantage of some of the recommendations in this evaluation if we're ever going to be successful (inaudible) legislation (inaudible) one item such as the annual registration of certain vehicles (inaudible) the Legislature I think we all likely could predict what would happen.

Anyway, thank you, Mr. Chairman.

CHAIR WEISSER: Thank you, Randy. If there are other comments you'd like to make I'm sure we'll have adequate time to hear them. Are there other members of the audience before I turn to the committee? Mr. Armstrong.

MR. ARMSTRONG: Yes, thank you, Mr. Chairman. My name is Larry Armstrong. I



yesterday sent a letter off to the Governor and the Legislators and I've provided a copy of that letter to you folks today. As some of you probably know, the Bureau of Automotive Repair has had the ability to take five and six-year-old cars out of the Smog Check Program for a number of years and they elected not to do that. AB2637 instructed the Air Resources Board to do it unless it would be shown to detrimentally effect the SIP, and they elected to leave those vehicles in.

I did some checking and the Air Resources Board I believe presented to you folks estimates that they believe that there would be an 8.9 percent fail rate on those five and six-year vehicles. The overall fail rate in the whole state in April through January, 2003 in that three-month period was 16.1 percent which also would include those same vehicles as that 8.9, so the difference between those fail rates is almost insignificant, especially when you take into consideration the ancillary effect of having the Smog Check Program (inaudible) everybody else involved in the program that is at least equal to twice (inaudible).

The Air Resources Board has testified before this committee that the Smog Check Program is the most

important thing that they have in their arsenal as far as doing away with any man-made emissions, and so now we're going to go and detract from that program.

I have testified before of my concerns that the consumer might very well lose a lot or all of their manufacturer's warranty by denying those vehicles that don't have to have a Smog Check so John Q. Public could very well end up paying for repairs that might very well be covered under the manufacturer's warranty.

From a selfish point of view, we just invested about \$80,000 per shop into a program that I lay awake at night sometimes wondering how I'm going to survive in business as my state takes away all of my customers.

CHAIR WEISSER: Larry, I'm going to ask you to take a break now so that others in the audience and people online and on the phones can comment now and invite you back to finish your comments.

MR. ARMSTRONG: Thank you.

CHAIR WEISSER: Thank you. Others in the audience? Mr. Peters.

MR. PETERS: Thank you, Mr. Chairman, for allowing me to respond to (inaudible). Charlie

Peters, Clean Air Performance Professionals, here representing motorists.

I heard a rumor, Mr. Weisser, and the rumor is that there is a comprehensive report that's been generated by the Air Resources Board (inaudible) quite thoroughly. I would petition the committee to consider requesting that report from the Air Resources Board and I would very much appreciate being able to get a copy of that report to give us a much better idea (inaudible) cars that are involved here in addition to U-Haul. Thank you, Mr. Chairman.

CHAIR WEISSER: Thank you, Mr. Peters.  
Mr. Ervine. Chris Ervine.

MR. ERVINE: Good morning. Chris Ervine with STARS, State Coalition of Test-and-Repair Stations. Mr. Ward was up here earlier and he was saying that by eliminating the five and six-year-old vehicles from Smog Check Program that this will adversely effect the test-only industry.

I beg to differ. It would not effect test-only with regard to (inaudible); however, it would make a drastic and damaging effect on the test-and-repair industry, since the test-and-repair industry, the only vehicles that we get to test are

the cleanest of the clean, and these would be five and six-year vehicles, so basically what we would be doing by removing the five and six-year vehicles from this is we would go from approximately 20 percent of the fleet that we are currently testing, according to BAR's figures, we would end up testing virtually nothing. I think that this needs to be taken into consideration, as well as the fact that the owners of these vehicles, as Mr. Armstrong brought out earlier, would end up at the end of the six-year period their vehicles would be going out of warranty, many of them would be out of warranty, and the smog repairs would fall upon the owner.

Being in the industry and testing vehicles on a daily basis and repairing them, we see many vehicles that are only three or four years old that are routinely failing Smog Check, and I think that by eliminating five and six-year vehicles we are basically shooting ourselves in the foot.

The IMRC and BAR are looking for any emission reductions that they can get anywhere, going after stationary engines that operate on a very limited basis and (inaudible)

CHAIR WEISSER: Did you want to finish your comments before we turn to the conference call participants?

MR. ARMSTRONG: Yes, thank you. My name again is Larry Armstrong, I've just got two more comments.

First, I'd just like to point out that there's some irony. I got up here and talked about the consumer and the loss of warranty and Mr. Ervine did the same thing, and if you take the time to think about it, that was pretty self-centered comments on our parts because we get none of those repairs that go back to the automotive dealers, so we get zero of those repairs and so I think our comments ought to be listened to there.

I have asked this committee before and I have some real concerns that you have not addressed the concept of whether we are trying to keep clean cars clean or find dirty cars, and this issue of whether we test five and six-year-old vehicles or not goes right to the core of that question. If you want to find dirty cars all the time, then don't test them as they're still remaining semi-clean; just wait until they're dirty and have done a lot of harm to the

environment, and then go test them and then you get cars that fail.

That to me makes absolutely no sense at all. I would be much in favor of a concept where we encourage people, automobile manufacturers, car dealers and everybody else to keep clean cars clean.

The last thing I would say is that I have a concern where I believe Mr. Peters expressed the issue of we are talking about taxing the motorist and this would not be considered a fee, it's a tax because we're taking the money away from one guy and giving it to somebody else and it's strictly considered as a tax, and I think the public has a right to have knowledge of where their money is being spent, and if buying diesel engines for farmers is a good idea, I'm not here to argue that, that's not my bailiwick. It is also not the bailiwick of this committee, as I understand it, but why we're taking money from the motoring public and then turning it over to farmers and (inaudible), I cannot fathom that.

One more comment and I'll stop. The only person that really effects the air in the State of California is that member of the public that happens to go out and buy a new car. All of our efforts come

behind that and the only ones that really count in there is the guy that buys a new car (inaudible) little bit more is also beyond me. Thank you.

CHAIR WEISSER: Thank you, Mr. Armstrong. Any other comments from the audience? Are there any comments from any of our callers on 1-800-HELP ME? Very good.

I'd like to ask members of the committee who are interested in addressing this matter to indicate that by flipping up your mic, and we'll start from my far right.

MEMBER HOTCHKISS: Thank you. Bruce Hotchkiss. I also want to make a quick comment on the (inaudible) issue. I find it rather ironic that we're focusing on these vehicles that are relatively new and therefore probably relatively clean, they do meet federal standards, while the supreme court in a recent decision says (inaudible) we can't restrict them because of pollution problems, and they are known to be much dirtier than our own vehicle fleet. That seems to be a much bigger problem to me than (inaudible) personal perspective.

On the retrofitting of the diesel trucks and boats, I have a problem with the Governor's

(inaudible) no taxes, (inaudible). But to put the tax on the backs of new vehicle owners to help businesses, it bothers me and that aspect of it bothers me. We're going to offer something to retrofit businesses, I'd like to see a corresponding effort to help motorists as well.

I don't particularly want to see the five and six-year-old vehicles out of the program, I think they should be in the program. I would like to see more vehicles in the program rather than less, not from an economic standpoint but from a clean air standpoint. It seems to me that the more vehicles we test, the cleaner hopefully the air will get.

CHAIR WEISSER: Any further comments on this side so far? We'll proceed down. Mr. DeCota.

MEMBER DECOTA: The issue of five and six-year exemption and change of ownership has definitely created a fervor of phone calls into my office since last Thursday by industry. I try to take and evaluate, but I've got to tell you that I do agree with Randall Ward's statements today. I do agree with Mr. Armstrong's statement today. I honestly believe Mr. Peters is very clear in regards to his issue on the money being moved from our coffers into the



general fund, and I think these are serious issues. And unfortunately, Smog Check has become a political football in some ways, and after 12 years on this committee, I honestly sit here feeling totally inept.

You can't fix the cars if you don't have the technicians in place to do so, and you're not going to have the technicians there by running the program as recommended by the Administration last week. Robbing Peter to pay Paul doesn't work.

Every ton of emission reduction is important to the economic regions of this state. It is illogical to turn our backs upon 3 tons per day of emission reductions, even at a \$40,000 per ton cost. It may initially appear to make sense to trade 3 tons for 33 tons; however, this is an incorrect assumption that you have to get emissions from one program to achieve reductions in another. The 3 tons of emission reductions from Smog Check on newer cars will likely never again be achieved. In reality, we need to be achieving reductions from both programs and yielding 36 tons per day to protect our state's environmental and economy.

Most organized regions of the state, including the Bay Area, Central Valley, South Coast

and San Diego, are challenged to get enough in emission reductions to comply and conform with the health-based standards in the federal law. If they fail, and many are on the verge, the economic sanctions enforced by the court will be significant. We need every pound and every ton of emission reductions that we can find. That means we cannot afford to walk away from three tons per day.

Government breaches trust in partnership with small business. Government will harm small business. As the Japanese general said after the attack on Pearl Harbor, I believe we've woken a sleeping giant. I guarantee the regulatory agencies and the Administration that industry is fed up.

Small businesses partner in good faith with the State of California at the request of government (inaudible). In the Bay Area these investments were made in the last 18 months. If we lose five and six years, you're looking at a \$90 million hit in testing revenues on this industry. We can't do it. Pursuant to the proposal, small business will now lose approximately \$90 million each year in revenues. This means job losses, economic harm to the infrastructure of these small businesses.

They were asked to step up, and they did. They raised the line far above the rest of the U.S. when it comes to reducing emissions. We were the first, we are the best, and now we are taking and defecating on the very private individuals that created an efficient emission reduction program. We can't do that.

You must also realize the burden shifts in this proposal, it shifts from the wealthy to the poor. Let me explain.

The proposal to exempt the owners of newer vehicles from Smog Check II will increase the pressure to receive reductions from the least advantaged owners of the remaining older vehicles. Proposals will continue to advance towards the Governor's desk to scrap gross polluters and/or older vehicles. If this is approved at a later date, there may be many increases in exposure to claims by consumer groups and others that these policies are harming the poor and helping the rich. Be careful. Thank you.

CHAIR WEISSER: Thank you, Dennis. There was passion and, I believe, some fact and advocacy mixed up in your remarks and I felt you put them forth well and forcefully.

MEMBER DECOTA: Thank you.

CHAIR WEISSER: I've been unusually quiet on this issue till now, and the reason is that for me this is a tough issue. This committee just several months ago sent a letter to the Governor urging that the Air Resources Board and BAR retain fifth and sixth year in the Smog Check Program. We did this following a presentation where we saw that the first through fourth years were dramatically cost-effective ways of reducing emissions. The fifth and sixth year became more marginal. We saw that costs tend to accelerate up until, I think the number we heard is \$40,000 a year, which in relative terms is not particularly cost-effective. But we still decided that those tons were so valuable in terms of the fight to achieve the state's air quality goals and meet the federal standards that we needed to retain them in the program.

Now the Administration and the Legislative leadership apparently have chosen to trade those tons in for dollars from this new tax or fee, increased tax or fee, in order to generate monies to support the Carl Moyer Program for on and off-road diesel retrofit and replacement, and they've come forward with a

pretty compelling argument. This proposal will reduce ten times the emissions that they would lose from the exemption of the fifth and sixth year, and is far more cost-effective.

My sense is the same as Dennis's in this regard. I think we have to go after all sources where cost-effective emission reductions are available. And as you know and I have mentioned to the public in past meetings, my organization as well as many others, including Member Lamare's, has been involved in a collaboration between stakeholders interested in identifying adequate sources of money to adequately fund both the Carl Moyer diesel retrofit replacement program and a program to identify more cost-effective emissions in the (inaudible) the Legislative leadership had embraced a broader based program funded from a variety of sources to achieve these cost-effective emission reductions.

The potential for a large emission reduction program embracing both diesel retrofit and replacement and improvements to the Smog Check Program is still before us, and folks in the Administration have indicated to me they hope these people continue to

negotiate and collaborate to come up with additional opportunities for cost-effective emission reductions.

Why the Legislative leadership and the Administration did not at the same time they pulled this switch of the fifth and sixth year for additional monies for Carl Moyer and the consumer assistance program, why at the same time they didn't embrace the recommendations that the Air Resources Board has already made in their draft report – and BAR, of course – for annual inspections for older vehicles, for higher mileage vehicles, or why the Administration and the Legislative leadership at this time didn't endorse the notion of terminating the rolling exemption for 30-year and older vehicles in order to keep those cars in the program, why the Administration and the Legislative leadership didn't use this as an opportunity to attempt to get immediate results from the remote testing of vehicles on the road in between Smog Checks at regular stations is disappointing to me. I don't know why those aspects, those things could not have been addressed simultaneously. I'm disappointed, but I'm not distraught. I say those that are interested in these programs should continue working on these programs.

I think the impact on the industry, both test-and-repair and test-only, is lamentable. This partnership that should exist between government and the private sector in programs like this is shattered and it's very, very difficult for me to come up with a cultured explanation of why the rules change 12 or 18 months after the expansion of enhanced I&M in the Bay Area, 12 and 18 months after these small businesses make a substantial investment. I don't have any good answer for that. I can't come up with a cogent response other than to say that the public's health in fact will be enhanced by getting ten times the emission reductions through the diesel program than they might have from fifth and sixth year. That's little solace to the individual businessman, and certainly no solace for me.

Dennis?

MEMBER DECOTA: Vic, as our chairman, did the Administration (inaudible) with you on this issue prior to the press announcements and the public's eye being (inaudible) to this recommendation?

CHAIR WEISSER: No, absolutely not. I read about it in the paper after getting a phone call saying guess what?

MEMBER DECOTA: Well, I don't know about the rest of the committee and I'm sure not speaking for them. If they don't even confer with their own recommending committee, what's going on here?

CHAIR WEISSER: Well, let me be clear. I think the Administration and the Legislative leadership have spoken with a large variety of stakeholders who are interested in coming up with funding to support cost-effective emission reductions for both the Carl Moyer program, for the scrappage program that you alluded to and other efforts to make these programs work better, including a more robust consumer assistance program. And I think what occurred is that the Administration and Legislative leadership looked through the inputs that they had received and essentially cherry picked a couple of ideas for this announcement. There's the fuel tax (inaudible) in order to generate large emission reductions.

There is little doubt that the eyes of the public are going to see two things in this announcement. First they're going to see, gee, I no longer have to take my car in for the fifth or sixth year. And the second thing they're going to see is,



gee, they're getting ten times the emission reductions from this Carl Moyer program than they might get from the Smog Check Program, and on the surface that looks pretty good. It's when you get below the surface that I'm disappointed that the Administration and the Legislature could not have gone further in terms of achieving the promise for emission reductions that I think we all crave.

Jude?

MEMBER LAMARE: Thank you. Given what other members of the committee have said this morning, I'm just wondering if there's any value or any potential for this committee to write a letter cherry picking the ARB/BAR report, if it's possible for us to take some things out of this report and request that they be expedited as part of the Governor's proposal in order to make a more well-rounded Smog Check reform package to be adopted in an expedited way. Apparently it's been part of the budget and the budget trailer (inaudible), and if people are comfortable with the annual Smog Check for older vehicles, authorizing ARB to do an annual Smog Check for high mileage vehicles. We heard the report several months ago and we've all had the opportunity to mull that one over.

I think that, I may be wrong, ARB has some ability to use remote sensing now to bring in or authorize vehicles that are tagged on the road as being higher polluters and not conforming with their current Smog Check requirement. That would be another reform that could be put into place fairly rapidly, particularly if there's money to hire the people to do the remote sensing and the roadside inspections and the other things that have been cut back in recent years in the Smog Check Program.

And then, I guess this report doesn't address the older car exemption fee, and we don't really have any considered input on that issue. Clearly a lot of people have suggested that older cars that are exempt, that is the rolling 30-year exemption, model years prior to '74 and so on, would also be considered for a fee to offset their emissions (inaudible).

So I would suggest to the committee that we should do a letter that outlines those options. Thank you.

CHAIR WEISSER: Thank you, Jude. Robert? Okay. Dennis and then —

MEMBER DECOTA: I feel it would be extremely timely to do that. Speaking for the California Service Station Association, (inaudible) we have a window of maybe a week to ten days, and this issue is going to move rapidly, so we must engage now if we're going to make any comment. It's going to be too late real rapidly.

CHAIR WEISSER: Jeffrey, did you have a comment? Any other comments? We'll entertain some additional comments from those folks in the audience and on the telephone. In fact, I'm going to start this time with telephone folks. Does anybody on the phone have any comments they'd like to make on this?

And Sue, is there any way we can tell if anyone is on the phone, I'm just kind of curious?

MS. WYMAN: Yes, there are.

CHAIR WEISSER: There are? Okay. I see a hand in the audience, Mr. Randall Ward.

MR. WARD: Thank you, Mr. Chairman. Randall Ward, (inaudible). I don't think that I'd characterize the love/hate relationship that this proposal any better than you did, Mr. Chairman. However, I think it's a bit strange and it needs to be pointed out. This is the only public hearing this

proposal has had. The legislation, AB2939, from November to the 7th of June it was a labor bill prior to that. So the piece of legislation, and I recognize no one in here has control of the Legislature, and certainly not me, but one of the frustrations I think we have is Mr. DeCota and myself and others (inaudible) and we were not participating in any of the working groups.

And more importantly, we've talked about the 30,000 ton reduction versus a 3,000 ton reduction. Why should they be compared to each other that one is better than another? That doesn't make sense. And I haven't had a chance. Here is an agency, the Bureau of Automotive Repair and the Air Resources Board that produced an analysis that had emissions objectives and cost per ton (inaudible). I haven't had a chance to look at the data for that analysis, I don't know how it was weighted. I don't know that there's been any subjective peer review, certainly not this committee. Okay. So we're saying that ARB (inaudible) with regard to any type of analysis they would do and we can take it fate accompli. Well, maybe we can't, but we ought to have a public hearing on it, we ought to be able to look at that.

You know, (inaudible) the analysis (inaudible) the last dataset that I have, almost 10 percent, 9.7 percent of the vehicles 2000 and newer didn't pass their Smog Check.

Anyway, I'm sorry.

CHAIR WEISSER: Thank you, Randy. We'll go from left to right. The gentleman with the hat. If you could tell us who you are -

MR. CARRIGAN: My name is Ron Carrigan and (inaudible). The reduction, removing the new vehicles from the smog inspection program, I don't know how monetarily that will affect you, but let me tell you how it will affect me.

I make my living on this, I feed my family this way. If you take these cars out of this program, it's going to cut my business in half. I'm going to go out of business, as will several other small shop owners that I know. We have to physically go in and inspect the cars ourselves, we can't afford to have technicians there all the time. That means if I don't make enough money in this program as it is to feed my family and do all these other wonderful things, it would be very detrimental. You take these cars out of the program, you're going to wind up taking the shops

out of the program and minimizing what you're trying to gain terribly and it's going to hurt a lot. Thank you.

CHAIR WEISSER: Thank you. You did a very good job of communicating. We'll go to Mr. Trimlett.

MR. TRIMLETT: Len Trimlett, smogrfgr. I'd like to start by reading a very short quote from the (inaudible) report. Quote, "The standards for each individual vehicle based on model year were not taken into account for this calculation." This is the HEP calculation (inaudible). "(Inaudible) high emitters of HC and CO. Conceptually, this reflects the idea that an older vehicle should not necessarily be expected to contribute more total emissions than (inaudible) new vehicle. An older vehicle could have smaller grams per mile than a newer vehicle by being driven fewer miles per year, even if it has more emissions per mile. Of course, many older vehicles are gross polluters and despite lower vehicle annual vehicle miles traveled, should be targeted. The categorization technique (inaudible) gross polluters by nature of them being older vehicles."

That is categorically not true. It is a dangerous statement. It is right here in an official

report. It appears to be what is driving this emissions program now.

Test-only, I ask you one very simple question. How many tons per day of pollutants has test-only removed? Categorically the answer is very clear. Zero. Why do we have it? Why not put the testing back in the hands of Mr. DeCota? We need the test-and-repair industry badly. Without that test-and-repair industry, your smog program goes down the drain. I urge you to write that letter to the state, to the Governor, directing him to put the fifth and sixth year retainment in the program. I think that Dennis is right on. Thank you.

CHAIR WEISSER: Thank you. Hang on for one second. Norm.

VICE-CHAIR COVELL: Yeah, you're waiving the rating report around and claiming that it's full of untruths. Have you got data to refute that?

MR. TRIMLETT: I'm quoting the statement here.

VICE-CHAIR COVELL: I understand that. You're saying that's not true. Have you got the data that backs up your statement?

MR. TRIMLETT: Okay. All you have to do is look at the cut points that in the system right now. Cut points are not the same for a new vehicle as an old vehicle.

VICE-CHAIR COVELL: I understand that.

MR. TRIMLETT: Okay. I'm saying this statement does not make sense. It is an official document that supposedly drives the HEP program, drives the test-only program.

CHAIR WEISSER: Thanks very much.  
Mr. Ervine.

MR. ERVINE: Chris Ervine with STARS, Coalition of State Rest-and-Repair Stations. I'd like to respond to the chairmans comment that he made earlier about the rules changing 18 months after the implementation of the program in the Bay Area.

This is not surprising. This has been going on with the Smog Check Program since 1994. In 1994 the State of California and the Bureau of Automotive Repair knew that they were going to increase the number of vehicles that were directed from test-and-repair to test-only to 36 percent. They lied to the industry for four years, actually until the year 2000 they lied to the industry about the number



of vehicles that were being sent to the test-and-repair industry.

Then in 2000 they did a bait and switch. They required us to update our equipment, and the month after we updated our equipment they increased the number of vehicles directed to test-only. Then again in 2001 they did the same thing. And here we are now, they've done the same thing to the Bay Area. They've promised them the moon and given them the shaft.

I think that the State of California really needs to realize where the emission reductions are done in the state, and they are done in the test-and-repair industry. And if they continue to give the test-and-repair industry and drive test-and-repair stations out of business and destroy the infrastructure for reducing emissions, it will be something that they cannot repair just by changing the formula on gasoline such as they did before when they made a mistake.

CHAIR WEISSER: Thanks, Chris. We have a comment from Mr. Armstrong. What I'm going to do is we're going to take comments from the audience and then ask the Air Resources Board if they have anything

they'd like to add to this discussion. And then I'd like to take a brief break, a biological break, then we'll come back, complete this discussion and then head into the normal portion of business.

Please, Mr. Armstrong.

MR. ARMSTRONG: Thank you, Mr. Chairman. My name again is Larry Armstrong. (Inaudible). I believe in this case my responsibility that I took on myself at my own expense, and your responsibility as I understand the requirements of this committee, are probably pretty much aligned, and I would like to suggest that this committee entertain the idea of directing a letter to the Governor and the Legislature on an immediate basis, as Mr. DeCota said because there's a short window of time where anything is going to happen.

I have absolutely no responsibility to any Carl Moyer program or anything that might come of it, and I believe as members of this committee you have the same responsibility to have no responsibility to the Carl Moyer program, and if you have a conflict in that area then you should consider excusing yourself from any action, because this committee is not assigned with that responsibility, it has no

responsibility whatsoever for diesel or engines for farmers or boats or anything else that's going on here.

I think your responsibility is clear and it's lined out and I would appreciate you entertaining the idea of sending a letter specifically addressing the five and six year vehicles because that's what's on the table right now, not a letter that's talking about annual testing or anything or testing high mileage vehicles or anything else, just that one thing, and I think you've got a responsibility to do it. Thank you.

CHAIR WEISSER: Dennis, I see your sign.

MEMBER DECOTA: Actually, I was going to address Larry. With regards to the five and six year, I think we should address also the change of ownership issue, because I think you'll find it to be more appropriate than five and six year.

CHAIR WEISSER: Thank you. Mr. Peters.

MR. PETERS: Mr. Chairman, committee, I'm Charlie Peters, Clean Air Performance Professionals and we're here representing motorists. I have provided to you a small packet that includes information as to how to (inaudible) small business in

California and (inaudible). The first piece inside of that is a piece out of the *L.A. Times* (inaudible) and so on (inaudible) raise taxes on the public in order to clean up the air. (Inaudible) whether pre-emptive strikes are appropriate. Then the last piece in that document is an opinion piece out of the (inaudible) *Register* that has some suggestions as to how you might appropriately evaluate and appropriately enhance the Smog Check Program by assigning an official function to the Bureau of Automotive Repair to find out if what's broken actually gets fixed. This was an issue that was addressed with CARB at the last committee meeting.

So there is, I assume, numerous out there numerous opinions, opinions from the newspapers. Obviously the stakeholders are pushing heavily to support taxing the public (inaudible) hundreds of millions of dollars from the bureau budget, to add more taxes (inaudible). I have seen no interest by anybody other than this one pre-emptive strike. To me, it's like (inaudible) any other opinions, and this is a political process and unless somebody steps up and provides some information. And I know Mr. Chairman that you personally know the Governor and

you probably don't like to get in his face, but I would say that somebody here could probably make some contact with the local media and maybe some different opinions than those being promoted (inaudible) -

CHAIR WEISSER: I don't totally agree or even partially agree with what the Administration and the Legislative leadership have done in this instance. I do think it's very good news that they're engaged in this issue, I think that bodes well for the future in terms of trying to identify and obtain adequate resources going into this very, very important element of any air quality strategy.

I saw another hand in the audience. Sir, could you step up?

LARRY: Good morning. My name's Larry (inaudible). I own a general repair station in the Bay Area. I am also test-and-repair. I am also a member of Automotive Service Council of California, and I'm a BAR certified instructor. (Inaudible). I've got a bunch of problems.

You're addressing right now the fifth and sixth year exemption, which I think is ludicrous. I put on one of my personal vehicles 50,000 miles a year. There are a lot of people like me that drive

from the Central Valley to the Bay Area to work.  
(Inaudible).

Beyond that, exempting the early vehicles from '68 to '74 is just as ludicrous, and the way I understand it, we don't really want to push that because we might upset people, piss them off. Well, so be it.

A few years ago, I went to a swap meet and there were virtually no vehicles, muscle car era, that were for sale. Then we exempt them, we come up with the 30-year exemption, which started, I believe, with model year '74. Six months later at the same swap meet there were a thousand cars for sale. Those cars the owners know are dirty and cannot pass a Smog Check in any form or fashion. (Inaudible).

Yes, any exemption affects my business. Fortunately for me, I am not test-only, in a way. Fortunately for me, I don't depend on my Smog Check business alone to survive. I do depend on the repair business, and that's why I'm test-and-repair. If I weren't, I really couldn't repair very much that happens in this state, and that's not improving my position or the people who work for me.

It's not just me. I'm the only one in the place that's not guaranteed a paycheck. The outcome here does impact me, my family. It also very much does and will impact my employees. Thank you.

CHAIR WEISSER: Thank you, Mr. (inaudible). I see some folks from the Air Resources Board in the audience and I'm wondering if there is any light that one of you might care to shed on this issue.

MALE VOICE: Thank you, Mr. Chairman, members of the committee. My name is (inaudible), I'm with the Air Resources Board (inaudible). Just to put a couple comments. Obviously, the testimony that's been given here today is very moving, and the impact of exempting the five and six vehicles (inaudible). If I can provide (inaudible), at least a word of optimism in the form of putting on context (inaudible).

This year's clean air (inaudible) is a work in progress, and the Administration is looking at a number of things that could be done to deliver long-term clean air benefits, saw an opportunity as part of the budget process (inaudible). And in doing that, they exempted the five and six year vehicles (inaudible) and used that as a funding source to

achieve (inaudible). We're looking at cost effectiveness of \$40,000 per ton versus \$5,000 per ton and at consumer savings.

So this (inaudible) because of the consumers and deliver some emission reductions (inaudible). But (inaudible) the industry (inaudible) and certainly something that (inaudible), and one of the messages that the Administration wanted to share with (inaudible) is that the larger emission reductions (inaudible) large emission reduction (inaudible). The Legislature (inaudible) and there is hope in the Administration that all the discussion that is going on now continues and develop (inaudible).

One of the (inaudible) the Air Board's recommendation (inaudible) that will ease the impact on the industry and deliver emission reductions (inaudible) than currently, and so (inaudible) the merits of the recommendations (inaudible).

CHAIR WEISSER: Thank you. Are there any questions from anyone? What I suggest we do now, as the gentleman to my left has been suggesting for the last half hour, is take a brief break, a ten-minute break, and then reconvene to discuss both what I characterize as Mr. DeCota has suggested in terms of



writing a letter and Jude Lamare has suggested in terms of writing a letter. But before I leave, I want to make sure everyone online and in the audience – [interference]

I still have a New York accent. Fifty years and it's still there.

That this issue is going to ultimately be resolved in the halls of the Legislature and in the Governor's office. And indeed everyone does have an ability to communicate with their Legislators on this issue and with the Administration on this issue directly.

This committee's principle responsibilities are aimed at improvements to the Smog Check Program and specifically the review of the CARB/BAR report. We're not decision makers, we're an advisory group. I would, regardless of what this committee decides to do, encourage you to take full advantage of this great American democracy and communicate directly with your elected officials. And with that we'll take a ten-minute break.

(Off the record.)

CHAIR WEISSER: – and it should be characterized as a proposal to exempt the fifth and

sixth model years of cars, also change of ownership within the first four years, and to use, I believe it's about \$60 million to fund the Carl Moyer diesel retrofit and replacement program and also \$5-6 million to budget the consumer assistance program for Smog Check.

Ms. Lamare and Mr. DeCota had suggested that this committee might want to entertain the notion of sending a letter to express its perspectives on the issues and I wonder if we might at least visit that issue. My understanding is that we have an attorney from the Department of Consumer Affairs who is listening to this, Mr. Carlisle, is that correct? And if that person is listening I'm wondering if they could call in on the 800 number because I have a question, and when they call in could they just interrupt us in some way, Sue, so that we know they're on the line.

Perhaps I could ask first Mr. DeCota and then Ms. Lamare to repeat their suggestions for the audience and the members.

MEMBER DECOTA: In all fairness, I'll defer to Jude because she did make the first proposal.

CHAIR WEISSER: This isn't a democracy, this is (inaudible). Mr. DeCota.

MEMBER DECOTA: Mr. Chairman, I think that the letter, and I'm not sure the feeling of the entire committee on this issue, so I wonder if we're a little premature with Dennis DeCota's version of what should be in a letter versus what the committee should be, as I'm only one part of this team, but I honestly believe that the committee's charge is to make recommendations, and this is a paramount issue and this is an issue that is basically on a fast track, and if this committee cannot render an opinion to the Administration as regards to its insight over many years of studying this issue and make a recommendation, I do not understand what we're doing here.

MEMBER LAMARE: My suggestion was to take out of the report that ARB and BAR have provided some non-controversial improvements to the program that will help balance the impact of the Governor's proposal.

I would add that that included an annual Smog Check for older vehicles, I believe the report says 15 model years or older, and that would add

substantially more vehicles to testing and repair, and presumably add a lot more repairs, so that would also address out biggest problem which is durability of repairs, and I think would represent a significant improvement in the Smog Check Program.

The second issue has to do with increased off-road surveillance or monitoring of vehicles. Personally for me the five and six year exemption is a big troublesome matter, not because of the (inaudible) but because only one-third of the emission reductions in the five and six model years are evaporative emissions, which we won't be able to get from remote sensing, so I would like to see a letter that suggests remote sensing and a roadside inspection program to monitor on-road performance and send vehicles to Smog Check when they are found to be noncompliant on the roadside.

So I did not hear any support for the concept and I think it is important to give feedback immediately, and if people are not feeling strong and secure in making these recommendations, then maybe it's best for the committee not to act at all than to spend a lot of time (inaudible). You know, I was looking for something that the committee would be

comfortable with because we've been over this stuff and we know this program and we know the program needs to get more emission reductions and we have very specific scientific opinions about ways to get that, but this issue is timely.

So, I still support getting a letter out there that points to some big emission reductions that could be gotten by small changes in the existing program.

CHAIR WEISSER: Thank you. Mr. Pearman.

MALE VOICE: I wish to support that.

CHAIR WEISSER: I'm sorry, was there someone on the phone?

MALE VOICE: Yes, there is.

CHAIR WEISSER: And you are?

MALE VOICE: My name is Steve (inaudible) with Auto Check.

CHAIR WEISSER: Okay, if you could hold on for a moment. Do you have a comment directly on this issue, Steve?

STEVE: It pertains to comments on supporting certain aspects of the letter.

CHAIR WEISSER: Well, why don't you share them with us right now?

STEVE: Well, I had sent an e-mail over a short while ago and I was hoping it would have been read into the record, and I had not yet heard it read, and it in fact support certain recommendations that had come forward in your April evaluation, supported by statements from your technical support document for that evaluation, and Auto Check would like to recommend first the elimination of the 30-year rolling exemption to replace (inaudible) 1976 model year vehicle. Now this change would add about 170,000 Smog Check inspections resulting in a reduction of approximately 5.7 tons per day of hydrocarbons plus NOX. Now, that would go well off the Governor's proposal concerning the exemption of the sixth year in the proposed 2939 bill.

Also, this would increase revenue for both the test-only and test-and-repair industries, and would potentially increase tax revenue for the State of California as well.

Secondly, we would recommend annual inspections of vehicles 15 years and older. Under the current biennial testing requirements 2.2 million of these vehicles are tested each year. With an annual testing requirement, an additional 2.2 million

vehicles would be tested each year. This change in the Smog Check Program would result in reductions in emissions of approximately – this is according to your technical reports – but approximately 46 tons per day of hydrocarbons plus NOX.

And again, it would increase (inaudible) vehicles that travel annual mileage of twice the fleet average would be subject to annual inspections. This change in the Smog Check Program would result in reduction of emissions of approximately 11.35 tons per day of hydrocarbons plus NOX. This would be additional testing of the fleet of approximately 280,000 vehicles, and again, it would increase revenue of test-and-repair of approximately \$24 million annually for these 280,000 vehicles.

Now lastly, in support of that, (inaudible), we'd like to point out the differences (inaudible) between test-only and test-and-repair stations.

CHAIR WEISSER: Steve, I'm going to interject here –

STEVE: Okay.

CHAIR WEISSER: – and suggest that that aspect of the issue not be brought up in the context of this discussion on the fifth and sixth year. We'll

invite your comments later today as we go through the committee's review of the Smog Check Program. I appreciate the comments that you made, I think you are very clear and concise and forceful and I want to thank you on behalf of the committee for that.

COMMITTEE MEMBER: Mr. Chairman, could I ask a question for follow-up?

CHAIR WEISSER: And could I ask you to resend the e-mail, because we have not received it.

STEVE: Yes, we will resend that e-mail.

COMMITTEE MEMBER: I just have a question. On the high mileage vehicles, do they envision that kicking in at what point in the life of the vehicle? If the car does 25-30,000 miles a year, sometime in about the fifth or sixth year that vehicle would be in a potentially high emission situation.

STEVE: Correct. And the idea behind the high mileage vehicle would be vehicles that travel more than twice the fleet average. So certainly if a new vehicle is driven considerably, such as newer taxicabs and so on and so forth, then these vehicles would then be included in that.

CHAIR WEISSER: Thank you. Mr. Pearman?



MEMBER PEARMAN: I guess one of the objections to the Legislature and Administration's proposal is that they sort of look at a couple of aspects of the air quality problems in isolation and haven't really involved or looked at all the affected stakeholders and the impacts on them and haven't taken a comprehensive look at the situation.

I'm a little uncomfortable with Ms. Lamare's idea because if we pulled some things out of the ARB report and try to mix and match with the Administration proposal we're kind of doing the same thing in that we just put together a hodgepodge of things that may or may not fit. We're supposed to look at the ARB suggestions and give it some intelligent thought, which we haven't finished yet, so you're totally taking (inaudible).

I guess I'm uncomfortable being forced to kind of play that game and I'd rather just say if we think it's a bad idea we should just say that (inaudible). If they're going to fund Carl Moyer, fund it from some different source (inaudible) more of a comprehensive review of how this proposal will affect the program.

CHAIR WEISSER: Thank you. Mr. Hotchkiss.

MEMBER HOTCHKISS: I'd like to agree with Mr. Pearman on that. One of the problems I had (inaudible) said that it was an incremental change, and unfortunately it's a very singular legislative change, and as we've seen, if you change anything in the Smog Check Program (inaudible) some negative impacts, and I would like to see a letter from us saying that, you know, let's hold off and look at the package in total. You can't just take funds from here and give to there without hurting. And time is of the essence and I think we do need to get a letter out saying no, no, this is in our opinion is perhaps a premature move without looking at how it affects the program in total.

CHAIR WEISSER: Are there any other comments from committee members? Dennis?

MEMBER DECOTA: I also agree with Mr. Pearman. I think trying to evaluate the ARB report on the I&M program right now with this issue, and if we do try to do that, how can we not do that without making our recommendations? So, you know, I believe the letter is a very, very important part of the process that we need to go through in understanding the report, and I'm not prepared to sit

down here and work through the report issues until I understand the ramifications that are caused by this most recent event.

CHAIR WEISSER: Is the attorney from DCA on?  
No.

MR. CHANG: Hello?

CHAIR WEISSER: Are you an attorney?

MR. CHANG: Yes, this is Don Chang.

CHAIR WEISSER: Oh, hi Don.

MR. CHANG: How are you today?

CHAIR WEISSER: I'm well. Don, I have a very simple question for you.

MR. CHANG: Okay.

CHAIR WEISSER: Suggestion has come up that this committee send a letter to the Legislature and the Administration associated with the recent announcement associated with the exemption of the fifth and sixth year model years from the Smog Check Program and change of ownership inspection. My question to you is whether we would be allowed to do such a thing without it being noticed on this agenda.

MR. CHANG: Looking at your agenda (inaudible) categories listed, and under the open meeting laws you can only take action on items that

are specifically noticed on your agenda, so it doesn't appear that your agenda for this meeting falls within what would allow that type of activity.

CHAIR WEISSER: Don, if we wanted to could we schedule another meeting in order to take such an action, have it noticed, and if so, what would be the minimal time for public notice under the Bagley-Keene and Brown Acts?

MR. CHANG: Okay. To answer the last question, you need to give at least ten day's written notice, ten day's notice before you can conduct another meeting. Then with respect to your question, once you all get together, yes, you could at least discuss it and possibly take action on that particular matter.

I think (inaudible) later action whether or not that's within the scope of authority or jurisdiction of the IMRC looking at your granted authority here. I mean, your granted authority really is to do kind of research and review as opposed to taking positions on legislation, but that's ultimately a matter which you would have to discuss as to whether or not the IMRC thinks it's appropriate to take that type of action (inaudible) within your authority.

CHAIR WEISSER: Well, it hasn't stopped us in the past from taking positions on particular pieces of legislation. Well, actually not specific legislative proposals but legislative concepts we've done, and so I will not consider that to be barring us in that regard. We might not want to get involved in AB this or SB that, but we can certainly address the issue insofar as it pertains to the Smog Check Program.

Don, is there any mechanism available to us to allow us if we wanted to, and I want to underline the 'if we wanted to,' to authorize the sending of a letter in less than ten day's notice? Is there an emergency procedure? And if so, what characterizes an emergency? Is there any other expedited procedure?

MR. CHANG: There is a procedure which allows you to -- one second. There is a procedure which (inaudible) special meeting to take action on -- to consider proposed legislation if it's determined that the action is necessary and could not wait ten days.

What is the situation you have, (inaudible)? I mean, why is it critical that you have to take

action now as opposed to in the next ten days or eleven days?

CHAIR WEISSER: Well, the budget process, these bills apparently are going to be considered as part of the budget process which is very likely going to be resolved within a week or ten days, and if there's input that we can agree upon, it would only have input if it reached the folks in decision making capabilities faster.

We have a couple of other [interference]

MEMBER PEARMAN: I'm not familiar with Bagley-Keene, but under the Brown Act there are exceptions even for acting within (inaudible) notice where you didn't learn of the situation until after the notice went out and then you had a need to take action and you couldn't wait until your next meeting.

In this case, this proposal wasn't publicized till last Tuesday, within the last ten days, and as far as I know, we just found out when the ARB representative spoke today that it may be something that's going to be resolved within a week to ten days, so I'm wondering if there's an equivalent kind of exemption in Bagley-Keene for that kind of circumstance (inaudible).

MR. CHANG: Um-hmm. Okay. Let me take a look at that and -

CHAIR WEISSER: Well, hold on Don, we're not done.

MR. CHANG: Okay.

CHAIR WEISSER: We've got a bunch of lawyers here.

MEMBER KRACOV: A bunch of lawyers. I'm not getting off Bagley-Keene, but I know that under the Brown Act, in addition to what Mr. Pearman referred to, there also are special notice requirements within 24 hours and other expedited means of notice that are available.

Now, I don't think we need to put you on the spot this minute but perhaps you could do the research for a half-hour or an hour or so and then come back to us before we adjourn today with an answer. I realize it's probably something that needs a little bit of study.

MR. CHANG: Well, actually there's a provision (inaudible) under Government Code section 11125.4 which authorizes special meetings. Basically, you do not have to comply with the ten-day notice provision, and it allows your agencies to take actions

where (inaudible) or where action is required to protect public interest, and (inaudible) one is to consider proposed legislation. However, it does require that when a special meeting is going to be called, that the state body is required to give at least 48 hour's notice to media, members of the media who have been (inaudible).

So, I mean, arguably, you could do a meeting within 48 hours if you give that notice, so that cuts you down instead of giving you ten days at least give 48 hour's notice. And if you want, I'll do a little more research and see if we can just basically -- well, let me look (inaudible).

CHAIR WEISSER: Thank you. Dennis, do you have a question?

MEMBER DECOTA: Yes. Two things. One is that one of the items on the agenda today is the evaluation of the ARB report. I think that letter should come from that evaluation, so I'm not sure if there has to be a special process or not because there has been notice.

The other thing is that we have a standard policy of reviewing and tracking legislation that impacts the Smog Check Program. I believe that AB2939



by Diaz is a very relevant part of our normal meetings that could also act as the conduit in order to generate our concerns. Those are my comments.

CHAIR WEISSER: Okay. Are there other comments from the committee as to direction? Let me – Don, you’re going to be doing further review?

MR. CHANG: Yes.

MS. WYMAN: When you’re not speaking to us you need to put yourself on mute so we don’t hear you over the loudspeaker.

CHAIR WEISSER: Okay. Folks on the phone, if you’re not speaking could you please mute your phone.

Well, let me share some of my reactions. I tend to approach this issue in a different way than Bob Pearman. I tend to think that if we’re going to say anything, that what we ought to be saying is the Legislature and the Administration should be approaching this issue, we would urge them to approach this issue on a broader basis than merely this exchange of the fifth and sixth year funding Carl Moyer, and that we ask the Legislature and the Administration to engage in adequate funding for all programs associated with emission reductions from on

and off-road mobile sources, both diesel and gasoline, through the Smog Check Program, through the Carl Moyer Program, that are cost-effective. I do believe cost effectiveness is important.

I specifically would not at this point hesitate to recommend a repetition of our previous endorsement of terminating the 30-year rolling exemption, number one. Nor would I hesitate at this point in recommending the imposition of annual Smog Checks for 15-year-old vehicles and a declaration requiring the Air Resources Board, the Bureau of Automotive Repair and Department of Motor Vehicles for coming up with a methodology for implementing the recommendation associated with annual testing of high mileage vehicles.

On the other hand, I have in the absence of that sort of action, I have a very difficult time agreeing that we should not fund an emission reductions program that returns ten times the emissions, ten times the cost effectiveness than the fifth and sixth year. So that's my dilemma, I just thought I'd put it out there.

MEMBER HOTCHKISS: I agree with the chairperson on that. I think as difficult as it is,

we do need to do these things in the larger context even though our specific mandate is specifically Smog Check. To look at anything out of the larger context seems to me to be a little myopic.

I would think that were we to implement some of the kinds of things you've just described, it may well offset some loss in the five and six year vehicles, particularly if we look for the high mileage vehicles within that subset of vehicles and include them in the program, I think that that may be a reasonable compromise position that in some way we could articulate, I would be supportive of somehow arriving at that (inaudible).

CHAIR WEISSER: Norm, do you have your microphone up?

VICE-CHAIR COVELL: You may have noticed I've been somewhat silent on this issue throughout most of the morning (inaudible). The Carl Moyer program idea was born in the Sacramento Air District's 1994 SIP, State Implementation Plan submittal, when we were short on the emissions needed to claim the one-hour standard by about five tons a day in hydrogen oxides. At that time we were under contract for consulting services through the firm that Carl Moyer

actually was employed by, and following the adoption and forwarding of that plan to ARB and EPA, we set about to put a face on that program as to what it would be.

Lo and behold, what we did identify was a significant amount of emissions, and to date this has mushroomed in the Sacramento Air District to the extent that roughly 92 percent of our hydrogen oxide emissions come from heavy duty on and off-road fleet contributions from our nonattainment area, which is the five county area surrounding Sacramento County. That need resulted in statewide legislation to fund such a program. Up until a couple years ago it had been funded in varying amounts through the general fund, and I can tell you that very cost-effective programs to reduce emissions resulted from that.

Understanding that the local districts that are responsible for cleaning up a portion of the air within our air basin, we do not have any regulatory authority to require things to happen in terms of emission reductions from existing fleets on and off road that are out there being operated. And we're also faced with the fact that when you get into the heavy duty side of things, you're talking (inaudible).

Heavy duty diesels, bulldozers, scrapers, (inaudible) and the like and a number of different strategies to reduce the emission contribution from these sources.

And it has been very successful. We've achieved a very low cost effectiveness number in terms of what is spent to get these emission reductions. Quite in contrast to what it costs to get (inaudible) emissions from the newer vehicles. And that program is operated in various areas of the state with, I'd say, a large degree of success.

Right now, districts are dependent on what we refer to as phase two of Proposition 40 to fund those programs. At the end of this year that funding will be gone. And we had worked through a coalition of industries, environmental groups, regulators and so on to try to establish a source of revenue to sustain that program. There's nowhere else to turn for the emission reductions that are needed in most areas of the state in order for health-based air quality standards to be attained.

That effort from the beginning was not focused on the source of revenue. (Inaudible). And we've heard from Mr. Oglesby when discussions involved

the Administration as to how does it play out. That's when it became a target.

As a result, I sit here quite conflicted in terms of the need to sustain a program that has been very successful and needs to continue on into the next number of years in order to achieve clean air for that existing fleet (inaudible).

I've also sat here a lot of years, and for those newest members here, I was at the time of our previous report was submitted, I was alone in opposition to that first four year exemption because I felt we needed to squeeze every ounce we could from this program, and I still feel that way. I am in a position probably if this goes to a vote of finding myself conflicted and feel that I will probably excuse myself from the vote on that.

I will only say that Mr. Armstrong's comment about those that are conflicted should be excusing ourselves, I wish I had heard that from you years ago when people were hounding us to get MTBE out of gasoline, which is clearly another issue that has no impact, no involvement (inaudible). Not that we haven't (inaudible) on that, but we clearly got

hammered about a non-smog check issue for a long, long period of time.

I do feel that that program has to continue. We were looking at an array of sources, and I think the chairman has named all those we were looking at. So from a cost effectiveness perspective solely, you get more tons from diverting the revenue from a fee paid by those people (inaudible) program. Of course that raises the argument (inaudible), and I think it's a question that needs to be asked.

So, I know that Carl Moyer types of programs have to continue in the state if we're going to get the air cleaned up. It won't happen without the revenue. Is there a better source of money? I don't know. We were after a number of sources but they all appear to be problematic, at least in the near future, and as a result, the Administration (inaudible) has selected this as the source (inaudible).

It is problematic for the industry. I certainly am sympathetic to everything I've heard here today. (Inaudible) and this may sound a bit hard, but the program isn't just for the purpose of keeping people in business, it's just for the purpose of trying to get the state's air cleaned up.

Having said that, I am understanding of the fact that we need people in business if cars are going to be repaired, so we cannot neglect that side of the equation (inaudible).

So, those are my thoughts and probably the position I find myself in, if anything is done today. If it's not going to be today, (inaudible) many of you on the committee to (inaudible).

CHAIR WEISSER: Mr. DeCota.

MEMBER DECOTA: I don't know how the (inaudible) industries in California give grants and those types of monies for the forgiveness of or to obtain pollution credits. Well, I just hope that our net gain is 33 tons per day and we're not offsetting that with some type of emission trade.

CHAIR WEISSER: The Carl Moyer program, as I understand it, provides grants to businesses, small and large, individual owner/operators of trucks, public agencies I believe are eligible, that meet under a grant program certain cost effectiveness guidelines, that compete for the money based upon relative cost effectiveness with a ceiling above which no grants can be given.



Is there anyone in the audience that can add more? And I'm not sure for the purposes of this discussion we need to know much more. We're not Carl Moyer (inaudible).

MEMBER DECOTA: I do believe that we are not the Air Resources Board and we shouldn't -- I've got to agree with Norm, although I don't agree with everything he said. I hear (inaudible) but we're not the MTBE committee, but we are the Inspection and Maintenance Review Committee. That's testing vehicles in the Smog Check II program, that's our charge, and I think we should take and guard that, we should take and promote that, we should make it the best program that there can be. I'm not sure if this even is an issue other than our recommendation that will impact our ability to reduce emissions by imposing a 'Rob Peter to pay Paul' type scenario.

So I am not conflicted. I have no problem in telling you I think we have every right to make recommendations. I think that's the charge of this body, and I think we need to carry that through.

CHAIR WEISSER: Thank you, Dennis. Gideon?

MEMBER KRACOV: Tough act to follow, Norm, with your experience and eloquence on these issues.

There's an expression that, you know, life happens while you're busy making plans. I understand the need for this body to take our charge seriously, to deliberate and establish subcommittees to review the different recommendations of the BAR/CARB report, but in the meantime, events have overtaken some of that review and we're faced with proposals that are pending, that are urgent, and I think to take our charge seriously we should do our best to respond to those proposals. I think that it would be great to see this body, maybe after more discussion, come to some consensus, but if we are not going to respond or somehow weigh in on this legislative proposal, I think we have to consider what we're doing here, because by the time we do come up with our recommendations, these issues may well have passed and already been decided.

We've been listening to testimony, at least I have, for almost a year now, some of us for several years. We may not have the expertise of some of the regulators, but we have certainly a lot of lay expertise, professional expertise. We have folks like Norm on this committee and Jude and others that are very familiar with these issues, and I would like to see us, whether it's today or at a special meeting,

assert ourselves and to figure out how we can respond to these issues to add to the debate, to add that expertise to the debate, because if we don't, our report will come out in December or January and it's not going to be in time for consideration of this issue.

CHAIR WEISSER: Thank you, Gideon. Is there anything you might want to add on the, what I would characterize as somewhat differing approaches that have been laid out from Dennis and Mr. Hotchkiss's perspective and Jude and I? I think Norm captured the dichotomy, frankly, that we're caught in here, but is there anything you'd like to add on that?

MEMBER KRACOV: Just to ask for a thumbs down approach and asking for more deliberation. Maybe I'm mischaracterizing that, but I think it's certainly a viable option.

Another way to do it would be to consider the broad approach. We could attach the eight recommendations that CARB made and say, hey, don't forget about these. We can reference what's going on with the Soto bill and that sort of larger discussion. I think there are three or four different ways we can approach this, but the alternative to do nothing, I

don't think is the appropriate response in this situation.

CHAIR WEISSER: You've been very clear in that regard.

Mr. Hotchkiss.

MEMBER HOTCHKISS: Well, it struck me while I was sitting here in the parking lot, giving up 3,000 tons to gain 30,000 (inaudible). If we were a military (inaudible) then we would be talking about giving up 3,000 lives to save 30,000, and I would much rather save 33,000, and it seems to me that we don't have to give up any. The idea that we sacrifice the fifth and sixth year vehicles to keep the Carl Moyer program going, I'm just wondering why we don't keep the five and six year and simply (inaudible), which would give more than enough money to keep Carl Moyer to keep vehicles in the program and it would be a very – we don't have to go in and start looking at, well, we could trade off the fifth and sixth for the fifteen year, keep them annual.

I mean, there are alternate sources of funding. There are alternate ways of doing it. (Inaudible). We perhaps – and when I say 'we' I mean the state. Perhaps we can have our cake and eat it,

too. We do need every single ton of reduction we get. We don't want to give up the 3,000 from the fifth and sixth, and I definitely don't want to give up the improvements in the diesels and the stationary and off road diesels. (Inaudible) very, very important (inaudible).

I don't think we want to do something that's going to hurt the inspection and maintenance industry, because they are, whether we believe they're doing an excellent job or a mediocre job, they are the backbone of the program and we're not going to have a program without these kinds of businesses out there. I think that we do have to take some action now because (inaudible) and I would like to see the committee endorse a letter saying we need to keep the fifth and sixth year vehicles in there, and maybe we recommend the Legislature look at alternate funding.

CHAIR WEISSER: Don Chang still on the line?  
No.

MR. CHANG: It looks like you have -- I see no way that you can really (inaudible), you have to give at least 48 hour's notice.

CHAIR WEISSER: Even the concept of this being, you know, part of our review of legislation?

MR. CHANG: Well, looking at your agenda I don't see that. I mean, your agenda is Smog Check Program evaluation; I don't see legislation on there.

CHAIR WEISSER: Even as brought out by one of the members of this being an issue that came up following the publication of our agenda?

MR. CHANG: Well, again, what we could have done is we could have given 48 hour's notice of that, (inaudible) Friday or Thursday, you could have given the 48 hour's notice, and then the IMRC could have made a determination that this was in fact something that required action on the part of the committee. So there was provisions for that, but we had to still give 48 hour's notice of that, which we did do.

CHAIR WEISSER: Okay. Don, I want to express my appreciation for you, and you were not expecting this and I appreciate the fact that you've listened, you've done some research and you've come forward with an opinion, which at this point in time I'm going to view as (inaudible).

Therefore, today we will be unable to take any action. However, we can today discuss whether we intend to take any action at some future meeting.

I see a guest that's highly renowned in the audience attempting to get my attention and I'd like to [interference]. Charlene, this one over here works. I just want you to look at these spectacular surroundings and offer them as a model, and particularly the ability to webcast and 800 call-in for the public, who have a very difficult time, particularly the industry folks, in making meetings held in Sacramento principally to save money.

MS. ZETTEL: This is certainly a state-of-the-art facility and I do take note, and thank you for allowing me to interrupt. I would like to ask a question of the attorney Don Chang, if the Brown Act precludes discussion of an item that's not on the agenda?

CHAIR WEISSER: Don?

MS. ZETTEL: I'm on a school board and we aren't allowed to even discuss something that wasn't on the agenda.

MR. CHANG: I think you have to put it on an agenda item for a future meeting.

CHAIR WEISSER: You mean we can't even talk about an item that's not on the agenda?

MR. CHANG: That's correct.

CHAIR WEISSER: That's just an absurd hamstringing of government being able to do its business, and throw me in jail, but we're going to discuss this item.

MR. CHANG: Okay. Again, it goes back to giving the public's right to notice so that they have an idea of what they can discuss at the board meeting, and to the extent that the public feedback precludes discussion items which aren't on the agenda because it allows an agency to perhaps (inaudible) before it's even noticed, then at a subsequent meeting it's pretty much the public didn't have an opportunity to participate in the discussion at that meeting where it wasn't noted, and then at the meeting where it is noted, you know, maybe a decision has already been reached and the public really didn't have an opportunity to participate there. I mean, that is the rationale behind precluding public agencies from even discussing items which aren't on the agenda.

CHAIR WEISSER: Don, I just want to compliment you. I will take back what I just said, that was a very thoughtful response.

We have Gideon has a comment.



MEMBER KRACOV: Right, but let's just be clear as part of the five and six-year issue as part of the Smog Check evaluation, we can talk about that all that we want because that falls into the agenda items as to all the different issues raised in those reports from CARB and ARB.

MR. CHANG: Okay. Again, if they fall within the Smog Check program evaluation, (inaudible) probably be an appropriate topic for discussion (inaudible).

CHAIR WEISSER: Thank you. I'm going to ask that our executive officer set up a meeting between you, he and I to explore alternative approaches to the formulation of our agenda that will permit us to have an opportunity to chat about things that right now with its existing structure we're precluded from.

I guess we're going to do a couple public comments. Don, I'm assuming we are able to publicly talk about setting a meeting up in order to publicly talk about what we want to talk about.

MR. CHANG: Yes, you can do that, that's appropriate.

CHAIR WEISSER: Okay, we'll take a couple public comments and then we're going to break for lunch. Len.

MR. TRIMLETT: Len Trimlett. A question for the attorney. Within the charge of the committee does the committee have the authority within the legislation to actually advocate positions on legislation, and particularly I say the 30-year rolling exemption, does that fall within their legal charge?

CHAIR WEISSER: Len, I just want to suggest or direct that you address the issues to this committee and we in turn will defer to the attorney or to anyone that we can. So your question is, does the committee have the authority to comment on legislation?

MR. TRIMLETT: To advocate.

CHAIR WEISSER: And to advocate a perspective. Don?

MR. CHANG: Okay. Again, it goes back over the statutory authority of the committee, and it's really to review and evaluate the vehicle inspection and maintenance program and to recommend program improvements to the Administration and the

Legislature. What you want to do at this point, I think, is to take a position on a bill. I think perhaps a better (inaudible) legislation on the Smog Check Program rather than a position on a particular bill.

CHAIR WEISSER: Thank you, Don. Thank you, Len.

MR. TRIMLETT: Thank you.

CHAIR WEISSER: We'll go from the front back, Charlie and then Larry.

MR. PETERS: Mr. Chairman, committee, I'm Charlie Peters, Clean Air Performance Professionals, here representing motorists.

Share with me how the Air Resources Board had a program to evaluate new cars that are brought into service had a 30 percent failure rate, noncompliance rate, and how that (inaudible) but I figure the Smog Check Program also (inaudible) but significantly improved program performance, which (inaudible).

So at this point in my and the committee, the Air Resources Board, Bureau of Automotive Repair's evaluation of the program performance, how we're not taking into account this ancillary effect, which is

more tons per day than the effect of deciding whether or not a car got fixed when it was broken. And I think that at this point going along with (inaudible) in my opinion that's not valid and that's not been assigned to the committee, so I think at this point it's appropriate for the committee to look at whether or not it's appropriate to take two more years out and address that issue possibly in a suggestive way.

I will say to you that this little legislation, times when the public can participate, having agendas on the meetings where the public gets notice is really (inaudible). I also (inaudible) in the 11:30 a.m. meeting in the speaker's conference room on the last day of session (inaudible), not only did you Mr. Covell, but I also (inaudible) and the chairman of that committee said, 'Oh, (inaudible). Gee whiz, everybody's agreed with it. How come there's nobody here and everybody's here opposing that?'

They stopped the clock at one minute of 12:00 because the law says that they have to complete their session by midnight. At 2:00 o'clock in the morning they went ahead and passed it. We need an open process with public participation and this behind

closed doors and off the record stuff has got to stop.  
Thank you.

CHAIR WEISSER: Thank you, Charlie.

Mr. Armstrong.

MR. ARMSTRONG: Yes, my name again is Larry Armstrong. I'm standing here again a little bit confused. At one time I brought up the issue of airplanes not having emission control on their fueling systems, and the chairman expressed outrage that the airplanes didn't have fueling controls, yet that was not the responsibility of the I&M Review Committee so we went on to talk about something else.

The \$300 smog impact fee that the Legislature passed right in the law they said that it was unconstitutional and that they would do something else, so they knew it was unconstitutional when they passed it, so if we have a question of ethics here I don't think we need to think that the Legislature is going to get offended if this committee decides to take some action that is necessary that may not be exactly within the confines of the law.

I would urge you folks to get one of those little tan books that the Bureau of Automotive Repair puts out, because in there a requirement of this body

is to make recommendations to the Legislature, and if you're going to sit on your hands at the point when you really need to make a recommendation.

The fact of the matter is that this body already addressed that issue, so I see absolutely no problem with taking the initiative to readdress that with the Legislature since you already did it anyhow, so you're not taking up new business, you're taking up a restatement of old business so you should have absolutely no problem with going to the Legislature and restating what you've already stated, already voted on and already presumably did legitimately in the first place.

As far as the five and six year exemption goes, I look at this concept kind of like if you had a bunch of corn farmers standing around and somebody was suggesting that you throw away the seeds and then maybe downstream we'll have a better crop. This concept of not testing cars just because seems absolutely insane to me. If the task is to try to produce cleaner vehicles, which I sort of maybe doubt that it is because if you'll recall, the representative from the Air Resources Board made a statement that if you actually cleaned up all the cars

that their analysis of the program (inaudible), so I actually kind of wonder what it is we're doing here (inaudible).

CHAIR WEISSER: Thank you, Larry. Before we -- who else? I'm sorry, I didn't see you.

MR. STERNS: Good morning, Mr. Chairman, members of the board. My name is Bob Sterns, I'm with the Association of California Car Clubs, and first of all I'd like to make a correction to a gentleman that was up here before. So far I've heard a lot of estimated or incorrect numbers, and one of the things he mentioned that I guess two years ago he went to a swap meet and there were zero cars for sale and now he goes and there's a thousand cars for sale. Well, I don't know where he got those numbers. I go to swap meets all the time and most of those cars that at swap meets for sale are definitely non-polluters because they're asking ten grand and more for them, so they've got a lot of money invested into them. And also, at any swap meet or sale these are not running vehicles, they're used for parts, so I'd just like to make that correction so you don't assume that now there's thousands of gross polluters out there at swap meets.

The other thing is relative to the inspection of older cars, I'm sure you're aware and maybe some of you might have older cars or collector cars, but the thing is you definitely try to keep them clean. I mean, our goal (inaudible) and my thing is that if you are really concerned about clean air, then stop talking about it, then stop talking about having all this controls on cars. If the tailpipe is clean, it should be clean. I mean, that's my take on it. The test-and-repair stations could still make their money because they're going to get a fee for testing the tailpipe.

CHAIR WEISSER: Let me interrupt you here. So would the car club enthusiasts then support the notion of bringing older cars now exempt from the program in for tailpipe only, no visual inspection, no checking out the equipment, but you would support, from what I'm hearing you, a tailpipe test to make sure those cars are clean?

MR. STERNS: This has been brought up in the past, and the thing is from '66 on and newer cars have some type of smog device on them. Prior to that they didn't. But the thing is, the smog pumps actually



caused more pollution than the ones that are taken off and put on as aftermarket equipment.

CHAIR WEISSER: Would you answer my question?

MR. STERNS: I can't speak for the organization, I'd have to bring that to them.

CHAIR WEISSER: Would you?

MR. STERNS: Sure, I will.

CHAIR WEISSER: But from your standpoint personally you think that would be a decent idea?

MR. STERNS: I think from the 30-year rolling exemption cars, if they want to stop it at '76 cars, then that they go in for a Smog Check and they only do tailpipe only.

CHAIR WEISSER: What about the cars that are not in the program? The car club enthusiasts keep cars clean. I mean, they do.

MR. STERNS: Like I say, I can't speak for the whole organization but -

CHAIR WEISSER: Okay, thank you.

MR. STERNS: Anyway, the other thing is is there's a lot of these charitable organizations throughout the state named for these car shows. (Inaudible) see how many cars is there. Go to

Pleasanton on a weekend when they have a show and see how many cars are there. You're talking about beautiful cars (inaudible) in California. They have always been - (inaudible) and we kind of set I guess the standard across the United States on what happens, and I think if you're talking about the five and six-year-old exemption cars, they're designed to not pollute and that's the idea.

So anyway, I just wanted to let you know that as of now the association is opposed to the rolling 30-year exemptions being taken out of the program.

CHAIR WEISSER: Yeah. Thank you very much. We'll go to Mr. Ward. And Len, you're going to be the last public comment we're going to take this afternoon.

MR. WARD: (Inaudible) I think all these programs contribute to each other. The reductions that are captured and the compounds that are part of the diesel reductions are different than those that are counted in Smog Check, and there are other programs BAR can testify to that are substantially more expensive and get substantially less than the

fifth and sixth years costs associated with this program.

And I think it's important (inaudible) for you to take a look at what are the consequences of that besides the emission cost. I can stand here, and of course from my perspective I represent Smog Check and so it appears to be self-serving, but it is, I think, very self-serving for the auto manufacturers (inaudible). Those (inaudible) are going to avoid a certain amount of warranty work on that emissions equipment. That emissions equipment lasts longer than the original equipment warrantied, and my surface analysis of that is that it certainly would warrant some discussion to determine whether in fact these vehicles are going to be (inaudible) by the time they're first tested, when that emissions equipment is first tested, whether it's in or out of warranty. Anyway, my guess is the industry or the auto manufacturers are going to make a substantial amount of money off of it.

CHAIR WEISSER: In fact, Randy, in conversations I've had with two car companies and one association representing car companies, they exhibited some level of concern associated with this proposal,

based upon the use of car monies going to diesel sorts of issues. So in fact, as far as I know, this is not an initiative that comes from the car companies whatsoever. Okay.

MR. WARD: Well, regardless, I think (inaudible).

CHAIR WEISSER: That's something I can't respond to. Len, and then we're going to chat for a minute and then we're going to do something like eat.

MR. TRIMLETT: Len Trimlett. I'm not sure that Bob Sterns speaks for as many people as he claims to, but I can tell you that I go out to a lot of car shows on a regular basis. As to whether the car community would support a tailpipe only test, that is a big question. I can go around in my car shows and just have casual conversations and give you a sense of would they or would they not support that. If you want to have a little outline of a study of what types of things you'd want me to ask, I can do that. I would consider that, and then I can come back to you and say, indeed, yes they would support it if under certain circumstances, or no, they won't respond (inaudible).

CHAIR WEISSER: Thank you, Len, appreciate the offer. We have a situation here – I'll just make a quick comment – where there is just little [interference]. Thank you, Len.

MR. TRIMLETT: I can tell you that most of the cars are very cleanly put together, state of the art, they take pride in those engines and they would want the cleanest running vehicles that they could have.

CHAIR WEISSER: Thank you, Len. Before we take a little break for lunch, we have received five, or four I should say, e-mails, and for folks who may be online or listening on the 800 number, I'm going to read the names of the e-mails we've received and make a commitment to you that we are going to at least review the e-mails in the meeting quickly and try to see if we can't get at least some type of discussion on them.

These people are Arthur Unger, Keith Jones, Denise Schuster and Jose Carmona. Now, if others have sent e-mails, those are the only four that I have and that we've received, so I would urge you to resend the e-mail.

MALE VOICE: Mr. Weisser?

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CHAIR WEISSER: Yes, sir?

MALE VOICE: Yes, I tried sending e-mails twice today and they've both been rejected as undeliverable, so there's something that's not working with the e-mail system. Thank you.

CHAIR WEISSER: Sue, is there someone – should he call you directly? Let me give you Sue Wyman's number.

MS. WYMAN: Actually, what you can do is try this address, swyman@arb.ca.gov.

MALE VOICE: Thank you very much.

CHAIR WEISSER: Anybody else having technical problem? Okay.

MALE VOICE: Yeah, I've been having technical problems because I've been trying to send e-mails all morning, so it's not working right.

CHAIR WEISSER: Okay. Well, would you send them to the new e-mail address that Sue Wyman just gave?

MALE VOICE: That's swyman@arb.ca.gov.

CHAIR WEISSER: That's correct.

MALE VOICE: Thank you.

CHAIR WEISSER: I'm awfully sorry for that. What I'm going to suggest is we take a break. It is

now 20 to 1:00. Do you think we could make it back by 1:30? Do people believe they could make it back by 1:30? And we will rely upon the good offices of the Air Resources Board to direct us to where's lunch. So with that, we'll adjourn the meeting right now until 1:30. Thank you.

**(Noon Recess)**

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### AFTERNOON SESSION

CHAIR WEISSER: Please keep your cell phones on vibrate. We've had no cell phone incidents in many, many months and I appreciate that.

Ladies and gentlemen, before we begin the continued discussion of this morning's events and move into other aspects of our agenda, we have another opportunity to make an acknowledgment to a person who has given many, many years of service to the people of California, and I refer of course to Mr. Richard Skaggs, who has been a member of this committee for many, many years through many administrations, who has served admirably as a voice bringing up issues that otherwise would not have been addressed by this committee. He has been a patient member, a dedicated member, served with a great deal of energy, and who I most admire in terms of his sense of humor which has been a mainstay in keeping us on a relatively even keel.

Richard, would you please approach this elevated bench here. Richard, I want to make sure you understand this is being webcast, so there are undoubtedly people in China and Iraq and other places who are watching this. On behalf of this committee



and personally for your wonderful sense of humor, I suspect, Richard, that this is not the last that we've seen of you. But now, unfortunately, until further notice at least, you'll be limited to three minutes.

[applause]

Richard, I want to acknowledge that  
Richard's wife - Joan?

MR. SKAGGS: Roberta.

CHAIR WEISSER: Roberta. Sorry, it's your other wife Joan. Roberta is in the audience. Roberta, my admiration for your putting up with this gentleman for so many years.

MR. SKAGGS: Thank you, Mr. Chairman.

CHAIR WEISSER: Thank you, Mr. Skaggs.

[applause]

Well, ladies and gentlemen, I want to pick back up where we sort of left off, and the first question I will put to the people on the 800 number. Do we still have Don Chang on the line?

Okay. Well, I think we've received the benefit of Mr. Chang's advice associated with what we may or may not do. Lawyers are staff people and they provide advice to decision makers and it's up to the decision maker to interpret that advice. My

interpretation is that this committee has on the agenda the review of – I want to get the specific wording – the Smog Check Program evaluation as being an agenda item, and it seems to me that virtually every issue that we have talked about can be encompassed in that Smog Check evaluation agenda item, and therefore, if, and only if we are able to come to a consensus associated with the Smog Check Program evaluation of the item as broad or narrow as we might interpret that, we indeed could or you could direct me with a majority vote to write a letter associated with alerting the Legislature and the Administration of at least some early impressions that we have of the program, and I would like to put forward as a motion the following.

That we see if we cannot get agreement among ourselves to send a letter to the Administration and the Legislature identifying what our charge in terms of our responsibilities to provide advice on the Smog Check Program.

Secondly, acknowledge our awareness of the proposal to utilize through exemption of the fifth and sixth year funds that would be generated from a new or increased smog abatement fee to fund the Carl Moyer

program and the increased funding for the consumer assistance program.

Three, identify that this committee has already taken action supporting the retention of the fifth and sixth year vehicles in the program.

Four, indicate that we are completely sympathetic with the notion and intent of attempting to utilize those monies to attain emission reductions which indeed may be greater and which indeed may be more cost-effectively attained through the use of that money to fund the Carl Moyer. However, that it would be this committee's belief and hope that the Legislature and the Administration now engaged in these issues on mobile sources broaden their engagement to identify opportunities to use multiple sources of funding that are a stable source of funding from appropriate sources to fund an expanded Carl Moyer program, for expansion of program that would be aimed to reduce emissions from light duty vehicles, including such things as vehicle scrappage, more intense vehicle repair assistance programs for the consumer assistance program.

Sixth, that the Administration and the Legislature consider at this juncture the

recommendations contained in the BAR/CARB report associated with the 15-year-old annual inspection program.

Sixth [sic], that they consider endorsing the freezing of the 30-year exemption as proposed in another piece of legislation.

Eighth, that they direct the Air Resources Board and the Bureau of Automotive Repair and the Department of Motor Vehicles to come up with a mechanism for the identification of high mileage vehicles and that those high mileage vehicles also be referred to an annual inspection program.

The letter should also indicate our concern over the impact of the proposal as we've heard it on business owners in both test-only and test-and-repair businesses, and indicate that these last three items would go some distance in ameliorating the impact of the current proposal.

This letter would not address a particular bill, it would be a program concept level letter. It would be put forward under the umbrella of an interim Smog Check Program recommendation. So that's my nomination. Before we have any discussion, is there a second, just for purposes of discussion?

MEMBER DECOTA: I'll second for purpose of discussion. Dennis DeCota, I'll second for purposes of discussion.

CHAIR WEISSER: We'll now open this up for discussion among our members, and I see Mr. Pearman's mic is up. No.

Mr. DeCota.

MEMBER DECOTA: One point, Mr. Chairman, is that you did not touch on the issue of change of ownership and its relative effect.

CHAIR WEISSER: The change of ownership, from what I understand, has diminimous effect in terms of the emission reductions from the newer cars, but we certainly would look at the change of – are there fees associated with change of ownership and the Smog Check Program right now, Dennis? I don't believe there are. You get a smog certificate. Is there a fee that goes into the program beyond the certificate fee?

MEMBER DECOTA: No.

CHAIR WEISSER: What would you suggest we would do in terms of the change of ownership aspect?

MEMBER DECOTA: That it remain as it is.

CHAIR WEISSER: Even though its impact in terms of new cars –

MEMBER DECOTA: I believe that in an biennial test cycle, I'm looking for my notes, but I believe that it's 1.2 million cars that are currently being checked that will be -

CHAIR WEISSER: 1.2 million of the overall fleet, but my understanding -

MEMBER DECOTA: Of the 12 million-plus subject to testing.

CHAIR WEISSER: I thought that the proposal from the Legislature and the Administration only deals with change of ownership of the first four years of cars.

MEMBER DECOTA: And it does.

CHAIR WEISSER: If that's the case, that total fleet of the first four years is probably around nine to ten million vehicles. I don't know how many of those change hands in the first four years.

MR. CARLISLE: The legislation (inaudible) fleet, so you would have the first four years coming out of change of ownership (inaudible) and that's very minimal.

CHAIR WEISSER: Norm?

VICE-CHAIR COVELL: For clarification, Rocky, are you talking about the bill? Okay. Which

proposes to exempt year five and year six. In addition to exempt one through four years from the change of ownership inspections that they are currently subject to.

MR. CARLISLE: As I recall, the (inaudible) did not do that, but the Administration (inaudible) actually does.

CHAIR WEISSER: And that reminds me we are not going to be addressing a particular bill, we are going to be addressing the Smog Check Program evaluation. [interference]

Is there anyone that could provide us with – no, I'm going to hold that for awhile. Jeffrey.

MEMBER WILLIAMS: I actually have a related point to a clarification of what you proposed about the high mileage vehicles. This is not the program for the first four years.

CHAIR WEISSER: No. What I would be proposing is that we would endorse directing BAR, CARB and the DMV to come up with an appropriate program, a way of identifying vehicles as far as possible, and it will not be an easy task, that are high mileage regardless of the year, but would also apply to new vehicles so that if new taxicabs or police cars or

whatever, these cars that are driven 50, 60, 70,000 miles, that they would be also subject to an annual inspection.

MEMBER WILLIAMS: I was just wondering if there might be a disproportionate number of change of ownerships among cars under four years of age that are high mileage cars and so if that's the same issue. We don't know.

CHAIR WEISSER: I don't know. I would presumably suspect that they would have a higher (inaudible).

Are there any other comments? Well, I want you to recognize that I'm trying to word this as carefully as possible, but what I would suggest in the absence of our attorney is that you direct me in consultation with my conscience, the staff and committee members that I deem appropriate to draft such a letter, to circulate that letter to you for review, but be authorized that once people, I have a review cycle that we'd send something like that to try to get something in on a timely basis.

Gideon.

MEMBER KRACOV: I think those eight points are very well taken and I think it's an excellent



proposal. I'd like to have some discussion as to whether we think this is the appropriate course as opposed to perhaps having another special meeting to discuss the issue, maybe even to review such a draft in a more public setting. I know there's pluses and minuses with that. Perhaps it's not feasible; I just wanted some discussion as to what we thought about that.

CHAIR WEISSER: Are there any comments on what Gideon suggested as a potential alternate to taking action now, and as we did with the 30-year exemption issue, circulate a letter, to garner any editorial comments but build the letter around the structure that I've outlined today? Bob?

MEMBER PEARMAN: Yeah, I'd like to know what the requirements would be for that special meeting. I seem to recall we did some telephonic special meeting, so to speak. Everybody participated by telephone after making available to the public (inaudible), and it had to be noticed, obviously, but beyond that, as I recall, unless someone has a different opinion, we could do it on 48 hour's notice, and I'd like to certainly explore that possibility too so we could give this more thought (inaudible).

CHAIR WEISSER: My understanding is that if we were to conduct a meeting, be it special or regular, [interference] is would people be able to either attend personally or have a place where they could call in that could be publicly accessible for a meeting this Friday. Is there anyone that could not do that?

MEMBER LAMARE: Call in?

CHAIR WEISSER: You'd have to call in from a noticed publicly accessible location, so could you raise your hand if you cannot either make in person or attend. Jude, Mr. Hotchkiss. John, when is your surgery?

MEMBER HISSERICH: It's on Tuesday, so I'd be available Friday. I was thinking that if we, let's say, were to go to a state building in Los Angeles and use a phone there. I mean, my office theoretically is publicly accessible. Or we could do it at the state attorney's office or something like that, some public building in the City of Los Angeles.

MEMBER KRACOV: I don't want to be a stickler on these issues or raise issues that could cause trouble, but for example, I think by circulating a letter to more than a quorum of this group, I think

there may be Brown Act issues with that as well, for example.

CHAIR WEISSER: Whereas, if you authorize me to send a letter and I spoke to something less than a quorum, there might not be.

MEMBER KRACOV: I think that's the case. And I don't think at first blush I have a real problem with that, I have the trust in you that you would write the appropriately nuanced letter and applaud the Administration for at least bringing this issue to the forefront and allowing this kind of discussion. But I do think that we should mind our P's and Q's with the Brown Act to the extent appropriate.

CHAIR WEISSER: Mr. Carlisle.

MR. CARLISLE: Yeah, I'd just like to point out that we're not controlled by the Brown Act (inaudible).

CHAIR WEISSER: Well, let me just take a show of hands. How many of you want to approach this through trying, asking our staff to try and put together a Friday meeting? How many of you prefer to do that versus try to take action today? Those of you who prefer to try to do a Friday meeting to review a draft that would encompass as best we can a hastily

transcribed portion of this meeting of what I just read, because I want it to be reflective of what I just read, on Friday? Would you be willing to do that? What's your preference? Who wants to just get the letter out, raise your hand. One, two, three, four, five, six, seven. Who would rather go through another meeting in order to ensure that your chairman doesn't end up in the pokey? Only two people want to keep me out of the pokey.

Folks, I think that we are able, I believe we are able to do this under the purview of the Bagley-Keene Act and the nature of our agenda, and based upon the seven-to-two showing of hands there seems to be support of that among the membership.

I will identify less than a quorum of people to consult with on this. I am going to ask to make (inaudible) in order to come up with this portion of the transcript by noon tomorrow. I don't care what you have to do, you're going to have to figure out a way, because I'm writing this tomorrow afternoon. That's the only time I have left the whole week. I will chat with some folks and we will go from there.

This will not be a Legislature or Administration kind of bash. I applaud both the

Legislature and the Administration for their engagement. We will be trying to encourage them to broaden their look by giving them [interference].

Mr. Hotchkiss?

MEMBER HOTCHKISS: I just want to make sure you will copy all of us on the letter after you've discussed it with a few.

CHAIR WEISSER: Directly from the county jail. But we have not yet taken a vote on whether or not we will send the letter as I outlined, and we have a comment from Mr. DeCota.

MEMBER DECOTA: Mr. Chairman, this letter is not clear yet whether you address the issue of 17 percent (inaudible).

CHAIR WEISSER: I would urge the Legislature under this letter and the Administration to look at all program changes in the context of a broader perspective regarding both the light duty vehicle fleet and the heavy duty diesel fleet, so the answer to your question is yes.

Okay, we're going to take some brief comments from the audience and then move to the main focus of this meeting which relates to the longer term program evaluation. So we'll start with Mr. Peters.

MR. PETERS: Mr. Chairman, committee, I'm Charlie Peters, Clean Air Performance Professionals, we're here representing motorists.

MEMBER DECOTA: Speak up, please.

MR. PETERS: I'm Charlie Peters, Clean Air Performance Professionals, we're here representing motorists, Mr. Chairman and the committee. Thank you for the opportunity to participate.

I find it just amazing that we're sitting here in a government building, people hired by the Governor and the Legislature, getting advice from attorneys who advise that this is an illegal inappropriate activity and we're continuing on. I think there is no (inaudible) for the chairman and the committee to propose what is being considered.

However, if we just completely disregard the law, then this process has about zero credibility when we just disregard the law. The subject has been brought up and even sent e-mails out to the committee that there's a question as to whether that passes the Bagley-Keene rules or law.

If we can't follow the law here, I think that this committee is a sham and may need to be disbanded. It is not (inaudible) for me to sit in a

building of my government and (inaudible) disregard the law.

CHAIR WEISSER: Thank you, Mr. Peters. It is the chairman's hope that what is being proposed is in concert with the law, that this committee would be acting within the law.

Mr. Armstrong.

MR. ARMSTRONG: My name is Larry Armstrong. I'm afraid I'm going to agree with Mr. Peters, because as I understand your proposal, basically it sounds to me like the committee is now attempting to do is to short-circuit any further discussion on the draft report that's been provided and end up casting that into concrete with a letter. I do not believe you have the authority or the right to do that. I do believe that you have the right to restate what you've already stated to the Legislature and the Governor. I assume that a letter was sent opposing the removal of the five and six-year-old vehicles. You've got the right and responsibility to refresh their memory on that if they have forgotten, but that's not a new issue. I've even, as much as I agree with Mr. DeCota that the four-year exemption is tantamount to ridiculous as far as I'm concerned because at the

point that it holds the vehicle owner responsible for the condition of that vehicle, so now we're advocating selling people a pig in a poke and then asking them to be responsible for it later. That ought to be a no brainer on anybody's part that that's bad business and how are you going to hold the public responsible for their own vehicle if they don't know what the hell they've got when they've got it, so that ought to be an easy one there.

I would suggest that you stay to the proposed changes and stay away from lobbying for all the things that you folks would like to have, because now you're venturing out into some different ground rather than just restating what you've already stated as a policy of this committee. And as I'm sitting back here I gave you folks my little letter that I did that is in the hands of the government as we speak and as I sat there it reminded me of the little joke about the definition of a camel, and that would be a horse drawn by a committee. To spend hours here laboring around the obvious. Why don't you just go do the obvious, send the government a letter that restates the policy as you've already adopted and forget about trying to break any new ground, because probably at



that point in time I may end up in jail with Mr. Weisser at that point in time because I'm going to ask them to put him there. Thank you.

CHAIR WEISSER: Thank you, Larry. I want to make sure folks realize that what we're going to be doing if this vote move affirmatively is merely encouraging the Administration and the Legislature to look at the broader issues associated with their proposal. We in fact are not going to be specifically saying do this, do that; we just are going to be saying that there are things in the ARB report that look promising and you should be looking at those rather than merely what we've done.

We have one last comment, Len.

MR. TRIMLETT: Len Trimlett. As much as I (inaudible). You've already stated the issues. Just summarize the issues that you've already stated. Make it a recap of what's already been put before this committee. And if you put a recap of what was put before this committee, CARB said don't (inaudible), et cetera, et cetera. Many are obvious and already stated. If you recap those, I can't see where you would be having a problem. Restating the obvious that you've already stated. You're not stating anything

new, and make it clear that's what's been already stated. Advocate it that way.

CHAIR WEISSER: Thank you, Len. Are there any folks on the phone that would like to comment on this? Are there any folks on the Internet that would like to comment on this? Sue is shaking her head no. Therefore, I would like to call for a vote on the motion which I will not repeat, but fundamentally to try to draft a letter along the lines that I've outlined, chat with a couple of you to make sure I'm capturing points as accurately as possible, and send said letter, with copies going to you of course, to the appropriate representative of the Administration [interference] by raising your hand. Seven people have raised their hands.

All opposed to that motion, please signify by raising your hand. One. And we'll note that for the record that's Mr. Pearman.

And are there any abstentions to that motion? There is one, Mr. Covell.

Based upon the count of hands raised, the motion carries. I will do my best to draft something within as quick a time frame as possible with the help

of the staff in coming up with a recap of this portion of the discussion as soon as possible. Thank you.

Jude, you have your wand up.

MEMBER LAMARE: Thank you. Jude Lamare. I just want to reiterate that what we're doing here is providing education to members of the Legislature and the Administration about what is in the ARB/BAR report that we are reviewing at this time. We're not making a policy decision, we're not making a regulatory decision in any way. We're simply putting together some information for the people who are making those decisions.

I'm not really thinking of this as a lobbying act as much as an educating act, because we've spent probably a lot more time on this issue than anybody over in the capitol, so that would be (inaudible) if I have any participation in the letter (inaudible). Thank you.

CHAIR WEISSER: Thank you, Jude, and you just guaranteed yourself participation in the drafting of the letter.

With that, Gideon?

MEMBER KRACOV: Let me also state that I do believe that this discussion is consistent with the

agendized item of the Smog Check Program evaluation. I think that all of the issues discussed in the motion basically fit within the categorization of the agendized item of Smog Check Program evaluation.

CHAIR WEISSER: Thank you, I'm very appreciative of that remark.

— oOo —

Ladies and gentlemen, what I'd now like to do is shift to the section of what we are doing and going to be doing in terms of the Smog Check Program evaluation beyond this interim educational report to the Administration and Legislature. And perhaps to kick that off, I understand that at the last meeting you had a presentation of the technical backup to the formal report, but we didn't have the technical backup in hand. That is now, as you know, this is known as the Technical Support Document for the Evaluation of the California Enhanced Vehicle Inspection and Maintenance Program, prepared by CARB and the Department of Consumer Affairs Bureau of Automotive Repair.

Now what I'd like to do is ask that Mr. Doug Thompson, who is the manager of the motor vehicle section at the Air Resources Board, perhaps just give

us a very brief overview of what has been sent to you that's included in hard copy in your books and it's been on the web thanks to our staff efforts and the staff of CARB and BAR for a week or two. Just make sure that both the audience and the members of the committee understand the relationship between this report and the formal report that we have already received. Doug.

MR. THOMPSON: Thank you, Mr. Chairman, members of the committee. The report that you all received in April of course contained a number of recommendations and an overview of the current program (inaudible). What we decided was important as well was to give you a full background on how we arrived at those estimates of benefits, so we have assembled a technical support document. This document was recently posted on our IMRC website and probably just within the last week or so and many of you have not yet had a chance to review it in its entirety.

The purpose of the document appears in two sections. The first section written by ARB staff provides an overview of how we estimated current and projected benefits of this current Smog Check program as well as how we projected benefits and cost

effectiveness for three of the specific proposals that are quantified for improvements to the program, including the freezing of the rolling exemption at 30 years, annual testing of vehicles 15 years and older and annual testing of high annual mileage vehicles.

The second section of the report was actually assembled by Sierra Research, a contractor to the Bureau of Automotive Repair, and provides some definitive analysis of the benefits of the current program, including an analysis of roadside data collected in 1999 and 2002 relative to the motor vehicle engine model used by ARB staff. Also, the impact of exempting five and six-year-old vehicles and discussion of (inaudible) a clean screen program for those vehicles.

Sierra also evaluated station performance and estimated the emissions benefits from the inspection of smoking vehicles. All of those analyses were used by ARB and BAR staff are included in the document.

So (inaudible) questions develop on the aspects of the technical support document, we'll do our best to try to answer those for you today.

CHAIR WEISSER: I have a simple question that I'll address to you and look at Tom while I'm addressing it. How do you expect this committee to do an adequate job reviewing this report in the absence of funding to engage folks to assist us in the review of all these different datasets? What will we tell people in terms of our ability in terms of doing an independent adequate evaluation without the independence and adequacy of funding?

MALE VOICE: As you know, we've had budget cuts and (inaudible). We've offered to do is offer the services of the contractors that we have. We have one right now that are prepared to give you a report and there's bidding going on for another one in the future. If you have specific data that you want to look at or you want done differently, any questions about anything in the report (inaudible), you can write up a scope of work and if it comes in at a reasonable amount of cost, then we can go ahead and ask the consultants to do the work for you. And you can be the project manager on it and (inaudible) broad contract, we could do that.

(Inaudible) hundreds of thousands of dollars, but we simply don't have that much in the

contract, but certainly any reasonable amount  
(inaudible) we'd be glad to work with you in any way.

If we could do it there in-house with data  
we already have (inaudible). You pose a question and  
we'll try to figure out how to get it done in the most  
effective way (inaudible).

CHAIR WEISSER: That's an outstanding reply.  
I guess I would like to ask the folks on the different  
subcommittees, but particularly the one that's looking  
at reviewing data analysis whether they've been able  
to get to the point where they're able to create the  
sort of questions, or have they already – as Rocky  
said he's gotten many questions – have they already  
been able to translate those or given those to Rocky  
and is he comfortable that [interference]?

MR. CARLISLE: Yes, we have been working on  
it, and I have a number of questions that just haven't  
been completed by the subcommittees yet, and  
(inaudible) so they can be submitted to ARB and BAR  
for response.

CHAIR WEISSER: Okay. Tom, good answer.

What I'd like to do now is to read to you  
some of the e-mails that we've gotten so far today,  
and some of them pose some very interesting questions



that will need follow-up during our examination of the program.

I'm going to start with Jose Carmona, who is writing on behalf of the Sierra Club. Let me read this. Jose is saying he'd like to ask several questions pertaining to the current structure and implementation of the Smog Check Program. Would greatly appreciate if these comments could be addressed during today's meeting currently taking place.

"First, the ARB/BAR report does not evaluate how successful the state is in reaching low income Californians with repair assistance. The Sierra Club is concerned that lack of financial assistance is a reason why Californians do not get durable Smog Check repairs and therefore loses potential emission reductions. What if anything is the current board – I guess he means the current Smog Check committee – doing to evaluate this important element of the program?

"Second question. What is the committee's position on expanding the Smog Check Assistance eligibility to 250 percent of federal poverty level from the present level of 185 percent?

"Third. Income eligible repair assistance, what is the state doing to evaluate the effectiveness of this program for reducing air pollution?

"Four. How can the state capture and repair the evaporative emission failures from vehicles that are exempt from Smog Check due to the new fifth and sixth model year exemption? The report shows that one-third of the emissions from failures in the fifth and sixth year vehicles are due to evaporative emissions. On-road remote sensing will not sense these types of failures.

"Fifth. With so many vehicles exempted from Smog Check in the early years, what does the state do to monitor on-road performance for increases in emissions from these exempted vehicles? What's the state's commitment to random roadside testing for the next few years? What emission reductions can be attributed to that program? To what extent is the state looking for systematic smog control component failure rates in order to do recalls on such components?"

These are a series of really good thoughtful questions, and frankly I'd expect nothing less from Jose, he's a very thoughtful guy. I don't frankly

believe that we could do what he asks, that we could address these comments during this meeting, but we might be able to shed some light on what the committee is doing to investigate them.

We, as you know, have a subcommittee that is dealing with or trying to deal with issues associated with the consumer information and consumer participation. Perhaps there are some thoughts from members of that subcommittee?

For instance, is there – let me just try to identify a couple of the questions. Are you as a committee going to be looking at the station of the Smog Check assistance eligibility to 250 of poverty from 185 that would increase the number of people able to get consumer assistance?

MEMBER LAMARE: You're talking about the committee that Paul and I are on?

CHAIR WEISSER: That's correct.

MEMBER LAMARE: Thank you. Jude Lamare. Paul and I have talked about these issues and I'm not sure that we have a tool to evaluate the income eligibility issue. We have recommended that we conduct a consumer survey of motorists who have failed Smog Check in advanced program areas to determine if

we can – that hopefully would give us some information about the point of those income eligible and test-only eligible users of the CAP program.

I'm not sure that we would get adequate numbers of such folks responding in the survey to enable us to conclusively answer a couple of questions that would, if we're able to carry out the small study that we've outlined, provide a pilot model program that would lead the state further in that direction.

So that's our number one methodology for looking at sort of the kinds of issues raised by does the CAP program help people make more durable repairs or does lack of knowledge of the CAP program affect the amount of money spent on repairing vehicles.

CHAIR WEISSER: I'm going to ask that staff of course make copies of these e-mails so we can give these to all the members.

Mr. Pearman.

MEMBER PEARMAN: Also, the subcommittee that John Hisserich and I are on, part of our hopeful questions that will be given to ARB touched on that. One is with respect to the inclusion of older vehicles in annual inspections that may bring more cars and owners who are CAP eligible. We don't know what

assumptions ARB made with regard to that and what the financial ramifications are. (Inaudible) increase in the CAP (inaudible), it's just to make sure there's funds available to handle that potential increased population.

And similarly with the fleet we want to find out what is the CAP situation in relation to the fleet situation (inaudible) commercial businesses that (inaudible) those vehicles and how does that tie into whether they are eligible for assistance and where are the funds to provide that if (inaudible) more frequently by annual inspections. If we can get the answers to those questions it would help (inaudible).

CHAIR WEISSER: Any other comments? I'm sorry. Let me go through the next e-mail. This is from Denise Schuster, and I'll read it.

"We have been in the auto repair business for over ten years now in Santa Rosa and a Smog Check station for approximately eight years of that time. We are currently a Gold Shield station. Last June we decided to take the risk of purchasing the new BAR 97 smog machine and go into debt for the next five years. One year later we're wondering if our investment is paying off or not.

"We've spent ten years in building up our business and clientele and lose 35 percent of our smog business to test-only stations. We lose on average 2 to 3 customers a day at \$66.75 each, and that's over \$1,000 a week in lost revenue. On top of that, test-only stations are not advising people of the consumer assistance program of which we are a part to try and recoup some of that lost revenue. We are also finding that test-only stations are telling consumers that they have to return to their station for retesting after repairs are completed.

"As to the consumer assistance program, that is another program that is highly frustrating and difficult to work with. We are at this time considering dropping out of this program and just becoming a regular smog station because of all the trouble we have with the consumers and the representatives of the program.

"I had thought that after ten years of business things should be less stressful, not more so. Trying to succeed as a small business in the State of California is a full-time job. Thank you for your consideration in this matter."

That's an interesting letter. Any comments?

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The next one is from Keith Jones.

"My last vehicle registration came to me with a smog requirement at a test-only station. As a Californian, I am for clean air and the smog program. I am not for the state telling me where I can go and cannot go for a smog test. My car is older and did not pass the first go-around. I was told to find a mechanic, fix some vacuum lines and then take it back. Yes, a total of [interference] retest at no charge. You cannot beat a one-stop shop. Please give me back my rights. Thank you, Keith Jones."

We have a couple more. The next one from Arthur Unger.

"These comments are mine alone." That's Mr. Unger speaking. "The value of reducing air pollution is measured in reduced premature death and illness. Measuring the amount of emissions reduced per amount of money spent is only a step toward determining the value of reducing air pollution. Future research should continue to estimate the morbidity of various levels of air pollution. We already have information on how much the ambient level of air pollutants would be lowered by a given reduction of emissions at a defined location. Reducing emissions of a vehicle in

an unhealthy basin like the San Joaquin Valley lowers the incidence of death and disease much more than reducing emissions from a vehicle on the Central Coast.

"What should the state do when a vehicle fails a Smog Check and requires more expensive repairs than the owner can pay? I think the owner should be paid high Blue Book for the vehicle, or some other generous amount. The vehicle should be scrapped. If the owner presents another vehicle for Smog Check, that vehicle should be checked at taxpayer expense and the owner told the result and given a guess as to how many years the vehicle will run before it too fails a Smog Check. No one should be paid for a vehicle more often than once every ten years even if making vehicle pass a smog test is too expensive for them.

"The regulations I propose will prevent farm workers and other poor people from getting to work unless they are provided with public transport. Once their cars are taken from them, these poor people will cause less air pollution than the rest of us. Thus, they should be allowed to ride the buses free and service with mostly natural gas buses should be improved.



"Many farm workers are brought to the field by labor contractors and farmers. In the rare instances where this cannot occur and the farm worker cannot afford to bring their vehicle up to smog standards, it is tempting to allow the farm worker to drive a dirty vehicle to work only. If that is allowed, the farm worker might drive the vehicle at other times. If the farm worker were apprehended at those times, there would be no way to punish them. It is too harsh and expensive to put folks in jail, and farm worker are too poor to be fined. There seems to be no solution but to force such workers to take jobs where transportation is available.

"Thank you for this opportunity to comment.  
Arthur Unger."

And here's one from Doug Lawson, a name that many of you know. He's been very active in the analytical side of emission reduction programs.

"Some weeks ago I asked that ARB/BAR perform calculations using a combination of roadside survey data and Smog Check records to evaluate Smog Check Program effectiveness. Tom Cackette just volunteered to have the contractor do some calculations for the IMRC. Can the contractor do the calculations that

Rocky mentioned earlier in today's meeting? Thank you very much, Doug Lawson."

Sadly, Tom Cackette is not here. Equally sadly, Rocky hasn't completed pulling the questions together, but I think a conversation with Doug Lawson is in order.

Now one from Dan (inaudible). Subject is rolling model year exemptions.

"First off, a tailpipe only emissions test is totally ineffective and is completely and totally pointless at all, as anyone would have to do is retard ignition timing on their vehicle and it will have low exhaust emissions. Doing a tailpipe only test is like not doing a test at all and shouldn't even be an issue.

"First, one must keep the simple" – keep in mind, I think – "the simple objective of the Smog Check Program. Since 1966 all vehicles sold in the United States and most other countries were required to meet design standards and were required to be design certified by U.S. Federal EPA and California Air Resources Board. From 1966 the requirements for compliance of automobile manufacturers were not very stringent. As the years and technology advanced the

requirements [interference] automobile manufacturers. When they are not operational for whatever reason, then vehicles can emit enormous quantities of emissions. This could be true even when the vehicles are not in use. The objective of the Smog Check Program is simply to make sure, I'm certain, that all aspects of vehicle design that were originally manufactured to each vehicle as they're design certified by Federal EPA and CARB, that which exists for the reduction of harmful air pollutions are in fact maintained functional.

"The Smog Check Program is not trying to retrofit or change vehicles, but just to ensure their compliance to the standards by which the vehicle was originally manufactured. The main underlying reason why vehicles are not compliant to the Smog Check Program requirements is vehicle owners, and especially the people in the automobile repair service industry that disturb, destroy and modify the delicate aspects of vehicle design which exists for the reduction of harmful air pollutions. This is done because there is an extreme shortage of people in the automotive repair industry who actually understand the engineering and design concepts which consists of automobiles as

needed to repair them, and there are no shortage of unscrupulous people who know how to change certain parts.

"Subsequently, what usually happens in automotive repair when vehicles have malfunctioned is the automobile repair service industry must employ the use of a very wasteful and costly procedure that is making guesses as to a vehicle malfunction. When this happens, and it happens most of the time in the business of automotive repair, this in turn results in perfectly good parts being replaced and services being done that are not needed, and repair cost being very high and vehicles not being repaired.

"Throughout the 1980's automobile engineers had to address the problem of people destroying and disturbing the delicate aspects of vehicle design that exists for the reduction of harmful emissions. They had to make emission systems more reliable and tamper resistant.

"By 1974 model year the basic elements of effective emission reduction equipment were in place on most vehicles. These systems are quite effective and almost as effective as vehicles today when they are operational. However, these vehicles are most

likely not to be compliant due to their age and natural deterioration of their emission control components because they are often owned by people who cannot repair them correctly or get them repaired correctly, and because when emissions control equipment failed and were tampered with, it was difficult to detect.

"1974 through '82 vehicles represent the most cost-effective and air pollution reduction effective vehicles for emission reduction. These vehicles are very the primary target for the Smog Check Program. They are the most important vehicles to have in the program. I can understand and respect the removal of 1966 to '73 vehicles, but any more vehicles being exempted would damage the Smog Check Program and our air quality. Subsequently, the rolling year model exemption must be stopped in order to maintain the effectiveness of the program. If anything, perhaps only exempting these vehicles from biennial inspections but keeping them in for title DMV transactions.

"Sincerely and respectfully, Daniel  
(inaudible)."

Any comments on any of these letters? No.

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MEMBER HISSERICH: I have a question actually and it may be premature. It's not really directly in response to all of those.

This issue of test-only versus test-and-repair, and I'm not on that subcommittee and I understand that subcommittee may be having a meeting shortly, but in looking over the document which is the outline of the report, which I guess was submitted last time when I was not here, there's two issues that I guess maybe the representative from ARB or the people who did the report could respond to.

The notion that test-only stations identify failing vehicles better but with only modest explanation as to why that difference may occur, one being that the vehicles may be repaired prior to the test.

Well, from a point of view of reducing air pollution, I don't really care if they repair the vehicle and the test is done and so on, that doesn't really bother me particularly because the net effect, I believe, is roughly the same.

The other component of it says vehicle repaired to lower emission rate, and I'm not quite sure what that means. Is that a suggestion that if

they go to test-only and are asked then because they failed to go someplace and get tested, that they come back and get tested and somehow end up at a better performance than had they had anything done at a test-and-repair station? I don't quite understand.

I've seen some test-only stations that some of them I really kind of wondered just exactly how accurately they're doing what they're doing. But be that as it may, whether they're all absolutely crystal clear and pure, that's fine, but I can't believe that all of the test-and-repair stations are doing a whole bunch of things to fudge just because they like their clients, and to the point where it's somewhere between a 10 and 15 percent difference in what they find.

Is there something in this technical document beyond the words that I've seen here that would give a fuller explanation? Because I saw a footnote that said that they were going to look further into the differences.

MR. THOMPSON: Your reading of the document (inaudible) from what's in there. Obviously, as the report indicates, it's an issue that we want to look at a little more closely. We did use some (inaudible) failure rates that were taken from (inaudible) data at

the Bureau of Automotive Repair, and we understand some more recent rates are going to be provided to us. We're not sure (inaudible).

CHAIR WEISSER: What's the time frame of that?

MR. THOMPSON: This is a draft report, and I believe the time frame would be within the issuing of the final report. I don't know when that will come out.

CHAIR WEISSER: I'm sure it will be as prompt as the delivery of the draft report was to this committee. Is there going to be an opportunity for any preliminary discussion of what the new data appears to be showing?

MR. THOMPSON: Yes, I think (inaudible). There's going to (inaudible).

CHAIR WEISSER: Will that be available by our next meeting?

MR. THOMPSON: I cannot commit to that, but I will do my best to put that issue forward.

CHAIR WEISSER: Could I ask the executive officer to put that on the agenda for the next meeting, just so we're allowed to talk about it.

Mr. Amlin.



MR. AMLIN: David Amlin, Bureau of Automotive Repair. I just wanted to add there are (inaudible) documents, one is additional analysis that's in this report. Also, I think in terms of the previous analysis (inaudible) in terms of what happens (inaudible) in that report (inaudible) supplemental analysis about different type of method of evaluation used by Sierra Research (inaudible).

MEMBER HISSERICH: Well, I don't believe I've seen that. I was just referencing the footnote in here. That document I'm not positive I've ever seen that. I know I've heard these things about warming the car up before conducting the test and all of that. I'll check with Mr. Carlisle and see if we have it or if I need to see it, because that was interesting the difference between the two as to why there is this repeated assertion that there's a substantial difference in the performance. Thank you.

CHAIR WEISSER: Dennis?

MEMBER DECOTA: I guess I'm directing this to you, John. There is some new information that I think Rocky can provide you with also that shows a very narrowing of the differential between the two types of testing. Seems like more and more test-only

vehicles as they're being tested are having a problem, so (inaudible) there is some new information.

CHAIR WEISSER: Comments or questions from members of the committee? Are there comments or questions from the audience? We'll first go to the in-person audience and we'll start from right to left this time, so we'll start with Mr. Peters.

MR. PETERS: Yes, Mr. Chairman and committee. My name is Charlie Peters, Clean Air Performance Professionals, we're here representing motorists. (Inaudible) thought I heard the doctor say that he went and observed test-only stations and what he saw didn't relate very well with what he expected to see. And I'm reading a whole lot between the lines and giving an opportunity to improve performance. Maybe I'm getting way out in front of (inaudible). And then (inaudible) analysis and statistics.

Well, I think the doctor (inaudible) something that's very important, and that is, unless you find out what's broken on a car and take it in and find out whether or not it gets fixed, this whole thing is a joke. It is a joke, this analysis of data that's been going on for decades, many decades, has been in support of test-only, that's divided the

automotive repair industry and eliminate automotive service so we can go (inaudible).

I'm sorry, we need to evaluate programs with real cars that have real failures, knowing what's broken, find out if it gets fixed. If it doesn't, make a demand for improved behavior. If the behavior doesn't (inaudible) test-only, remote sensing and (inaudible) and fun stuff, I think you need to get down to some real people and you need to remove small businesses (inaudible) the people of southern California for no reason other than the fact that (inaudible) and he's still today out of business and nobody here will step up and even look at it, this whole thing is a sham. A sham.

CHAIR WEISSER: Thank you, Mr. Peters. We'll ask Mr. Armstrong to approach.

MR. ARMSTRONG: My name again is Larry Armstrong. Just one quick comment. I brought a presentation with me and I want to make sure that I get the opportunity under public comment or something to do that. Right now I'd like to comment on the comments that were made about test-only.

I've been pretty careful. I think that people in the test-only industry probably care as much

(inaudible) so I'm pretty careful when I get in there and jump into that pile. The Bureau of Automotive Repair, namely Larry Sherman at the time he was there, (inaudible) in Long Beach, I believe it was, I made a comment that I thought that there would be an 85 percent fail rate at test-only, and he corrected me and said that the BAR figured it at 75 percent, which didn't offend me at all.

Part of this question is really simple math. If you send all the cars that are expected to fail to one place, all of the things that happen are pretty much predictable. The higher failure rate would be predictable, the higher reduction rate would be predictable. Even though those people don't reduce anything, their reduction rate would be entirely predictable.

So the fact of the matter is that the fail rate (inaudible) information that states that test-only does this great job. I'm assuming that those people are trying to do the work as adequately as they can, but just the principle of the thing, they are never going to get there because they do not have the incentive to have the opportunity to sell something to their customer, and therefore they're not

going to look as hard as the guy at test-and-repair.  
It's that simple.

I've got in the presentation that I brought today I've got plenty of information that backs up the kinds of things that I've told you folks that (inaudible) and hopefully I'll get the opportunity to go through that and really take the opportunity to read the documentation that goes with it. (Inaudible) presented by somebody that the Bureau of Automotive Repair and probably the Air Resources Board continues (inaudible).

CHAIR WEISSER: Thank you, Larry. Len.

MR. TRIMLETT: Len Trimlett. Mr. Carlisle said 9 percent failure rate in test-and-repair and 25 percent failure rate in test-only. Well, I ask the question, (inaudible) what are you hiding? What failures are you finding at test-only that you cannot find at test-and-repair? That brings up the subject of my (inaudible). It went through a long block replacement and it went through test-only. So I ask again that they test my van and I raised these questions (inaudible). What are you finding at test-only that you can't find at test-and-repair, and why?

There's questions about the standards for vehicles from new vehicles to old vehicles. I've raised question what percentage is going to official pretest to give some people an idea of what the status of their vehicle is before they go there. How many people, what percentage is going to test-only, test-and-repair and then ping-pong back to test-only three times because the test-and-repair can't certify a vehicle? What percentage is going to test-only and then to Gold Shield? I think these are all valid questions to ask because, personally, with everything I've seen in the test-only stations that I've been to, it's an assembly line operation. Test them, get them in, get them out. If you fail, go somewhere else to get your Smog Check.

In the absence of anything that tells me that there's some concrete difference between what they're finding at test-only versus at test-and-repair, I'm left with only one conclusion (inaudible). There has to be (inaudible) test-only and test-and-repair, possibly (inaudible), I don't know for sure. I'd like to know. I would like some plausible explanation that justifies the presence of test-only because personally I don't think there is.

CHAIR WEISSER: Thank you. And I think that question has to be one of the fundamental questions that we addressed to CARB and BAR, the issue of the understanding of what do you attribute the differences to.

MR. TRIMLETT: Yes. (Inaudible)

CHAIR WEISSER: No. Thank you. Sit down Len, please. And then you'll have more time later. Mr. Ervine and then we'll (inaudible).

MR. ERVINE: Chris Ervine. (Inaudible) that emissions only at test-only and we do a test on them and they pass, and they pass with good numbers primarily because we precondition the vehicles properly, and they're not being preconditioned at test-only. I've had the gestapo crew out of BAR out to my shop on one occasion when I had two vehicles that were failing numerous times at test-only shops and when I tested them in my shop they would pass with good numbers. Crew came out and I tested the vehicle and my shop with them present. It passed with the same numbers (inaudible) seven times.

We took it over to a test-only station where it had been tested five times prior and failed as a gross polluter, and we tested it and it passed with

the same exact numbers almost that I had passed it seven times before. There are problems there.

There are also problems (inaudible). The test-only stations are failing vehicles on emissions, but they're not willing to test properly as far as the vehicle's functional test. We get an awful lot of vehicles that failed on emissions and when we check them to find out what's wrong we find tampered equipment on it. We've found things that are broken that is never caught at test-only. I've brought this to BAR's attention and asked them if they can't police their vehicles a little bit more carefully, because they have all the information right there in front of them.

If vehicles are failing at one place for one thing and passing for other things, then when they get to another shop for repairs and they're finding stuff that is missed, that is either broken or modified or disconnected that the other shop didn't find, somebody is not doing their job properly or somebody's committing fraud. BAR needs to check and find out what's going on there, and to my knowledge none of this has been done.



Everything is there to do this. At test-only stations you have the same problem as test-and-repair. You have an individual that's checking the car. If he's not motivated or if he's lazy or he's crooked or whatever, you're going to have the same problems regardless whether it's a test-only or a test-and-repair, they're not going to do their job properly.

CHAIR WEISSER: Thank you, Chris. Linda Caldwell.

MS. CALDWELL: Our Smog Check station is a test-and-repair and we've been in the program since its inception and we were one of the prototype programs and have actually worked very closely with BAR in developing not only the cut points but the approach to repair and diagnostic work (inaudible) each successive training entity, and so I feel like we have a pretty good feel for the program. We've seen it change and evolve over the years, and I could go on for quite awhile about the sad shrinking of the program because we invested a great deal of money and the program itself (inaudible) and became just a very small portion of what we were initially expecting it to be.

However, having said that, I see that the test-only and test-and-repair are two sides of the same coin. We actually don't feel antagonistic towards the test-only, and in a sense they handle delivering bad news to the customers for us and they do fail a higher ratio of cars for some reason. Our estimate of the reason for the higher failures, I think is probably because of not preconditionning. I don't think I like the word 'preconditioning.' In fact, I don't think BAR wants preconditioning in a sense that they do want (inaudible) and even a properly running engine may fail, so in that sense we think we know part of why there is a difference in the numbers.

And we think also that if there was a sense of urgency prevails in the test-only because they're working piece work and our shop works by the hour, and so our technicians are paid a fair price for their time, and so there's a little bit less pressure to get (inaudible). So it's just a little different approach.

I'd like to make just one final comment on behalf of the organization that I am a member of, including (inaudible) and they have a test-only

(inaudible) members. I'm also a member of the Automotive Service Council and many of those are test-and-repair stations. Also AutoCal and other organizations across the state that represent -- I would just like to say that (inaudible) participating in this program (inaudible) to follow the law. We would very much like to see this program survive and have credibility, for the cut points to be adequate to do a good job, starting out with cut points that (inaudible) very sad comment on the whole smog program.

So a little bit out of (inaudible), but I do like to speak on behalf of small business.

CHAIR WEISSER: You're doing darn well and thank you very much for coming up, and if we have additional time if there's anything more you'd like to say, we'll ask you to come back. And there's a question from John.

MEMBER HISSERICH: Actually a comment. I appreciate what Ms. Caldwell and Mr. Armstrong's approach to the idea that these folks are all in business together. In asking the question earlier I was just simply trying to understand why repeatedly the test-and-repair is reported vis-a-vis the

test-only in terms of their performance, and my goal and I think all of our goal here is not to sustain one part of the business or the other but to reduce emissions, and we hope that that occurs.

Although Mr. Peters has left the room, I didn't want to suggest in my comment earlier that somehow I thought that test-only was some kind of a rip-off. But conversely, I wouldn't want to suggest that test-and-repair is a rip-off either or that those folks are doing something they shouldn't. I think most of the people in both parts of the business are just trying to do a good business, and there may be a few outliers on both sides of it that are not representative of the whole industry.

Just to the staff and to other, I just want to try to understand a little better and all of you to make some explanation of this, the question of whether getting it up to proper operating temperature, preconditioning, fixing it first, those are the kinds of things I'd like to understand better as to the role of the respective parts of the industry and that's why I asked the question.

CHAIR WEISSER: Thank you, John. Let me before I ask if there's anyone on the telephone that has something, let me read a new e-mail from Dan Ru.

"From what I have seen of the CAP program, the CAP stations are not repairing a lot of cars. They just sell the state for repairs not done or not done correctly. If the consumer assistance program works and really assists motorists, it would provide and make available to motorists pertinent service literature for repair of vehicles. It would also make available for rental extensive and proprietary diagnostic equipment such as gas analyzers and vehicle scan tools. This would educate vehicle owners and help empower vehicle owners to help themselves. Spending more money with the CAP stations for often unneeded and repairs not done is not effective."

Members of the committee, let's see if there's anyone on the call-in number that has a comment that they'd like to share with us. Anyone on the line?

MALE VOICE: Yes.

CHAIR WEISSER: Would you identify yourself?

MALE VOICE: Yes, my name is Darrel  
(inaudible) and I'm with Glenmore Auto Repair in  
Fremont, California and I've been with you all day.

CHAIR WEISSER: Thank you.

DARREL: One note on the (inaudible). I  
just took the test and I know it's much easier than it  
was four years ago, because I had to go through the  
whole training program again. I've had 25 years  
experience in what I'm doing and I can diagnose  
(inaudible) and we're taking young people that have  
just came out of school, putting them into a test-only  
and they don't know how to check the findings, they  
don't know what (inaudible) is and they don't know how  
to test a vehicle, and that takes time, that takes  
(inaudible) time out in the field.

How would you like to take a pilot on a  
plane (inaudible) the experienced pilot says we don't  
want you doing this anymore, we're going to take this  
person with less experience. Well, they're failing  
more cars and they're doing a disservice to the  
public.

The standards, the reason that they're  
failing more cars, I had about ten cars in my shop  
today and seven of them had to go to test-only because

they were 1990 and below. All the cars I get are '90 and above. They're going to pass. They're going to have higher failure rates with '90 and below. I went over this with you before. (Inaudible) We're going to want to put all the test-and-repair out of business and nobody's going to have an answer what happened in the last eight years from the BAR and I think the Air Resources Board have tried very hard to get statistics (inaudible) and not correct by any means to what is actually happening in the field. A lot of people are not going to survive this (inaudible) type of program that the BAR has taken upon themselves. It hasn't been legislated, it's been they've taken it upon themselves to say, hey, 70 to 90 percent of your customers can't come to you anymore because we don't think you're doing a good job. Now this is (inaudible). When you can tell my customers they can't come to me, you've taken \$350 of my wages away from me today and (inaudible) and across the street the guy did twenty. Now, if this is fair, gentlemen, I have a difficult time with thinking that this committee is doing anything. That's all I've got to say.

CHAIR WEISSER: Thank you very much. I felt that the data that we've seen comparing relative failure rates - Rocky, perhaps you can answer this - is normalized. In other words, they try to deal with the fact that you're getting a different section of the fleet going to test-and-repair versus test-only.

MR. CARLISLE: (Inaudible) random and high emitter profile.

CHAIR WEISSER: There's got to be other reasons why there's such a dramatic differential as John was raising.

MR. CARLISLE: I'm sure there are and I'm sure we can find this out, but one of the things I'd like to comment on if I may. The (inaudible) change. One thing that people may not be aware of (inaudible) is no longer here, he's in charge or the technical standards for BAR. The test is a situation not only given by working technicians, but the (inaudible) is also (inaudible) working technicians. There is no rule within (inaudible) BAR that determines what the pass points are, it's done by working technicians called subject matter experts.

CHAIR WEISSER: There certainly is nothing that would distinguish the test between those



technicians working in test-only versus those technicians working in test-and-repair?

MR. CARLISLE: Absolutely not.

CHAIR WEISSER: And you would never consider that sort of thing to be reasonable or rational, would you?

MR. CARLISLE: That was considered at one time.

CHAIR WEISSER: Oh really? Why?

MR. CARLISLE: Because the technician in the test-only arena does not need the repair expertise.

CHAIR WEISSER: So the test actually covers both the analytical diagnostic side and the how you go about repairing it side?

MR. CARLISLE: Absolutely, for both the test-only technician and the test-and-repair technician. They have the same (inaudible).

CHAIR WEISSER: Okay, thank you. I see a question from Mr. DeCota.

MEMBER DECOTA: For information purposes, I don't know if it's been introduced yet, but follow Senator (inaudible) real close, okay, that is being sponsored by (inaudible) that will be cutting down the test between those that work in test-and-repair versus

those who work in test-only, and the test-only test, if passed, would be much easier and there would be a lot less qualifications if enacted for a technician to do a test-only test than one that performs at test-and-repair.

CHAIR WEISSER: The rationale being that they don't need to know the repair side, they just need to know how to do the test.

Mr. Reese.

MEMBER HOTCHKISS: And Rocky, just a historical note. I think some of the technicians and shop owners (inaudible) there was a time when there was a (inaudible) failure rate on the technician test and it did lower the pass/fail rate because they were afraid (inaudible). I think it kind of left a stigma but that's there. Any time there's a change in the test people feel that we've made some adjustments because too many people were failing or something.

It's unfortunate that that was done that one time, because like anything else, if you do something that doesn't seem too smart it sticks with you forever.

CHAIR WEISSER: Right.

MEMBER HOTCHKISS: And the idea of having different test levels for test-and-repair and versus test-only, seems to me if I remember when (inaudible) that they were hiring welfare work people (inaudible). It really doesn't take a whole lot of expertise (inaudible). If you actually sort of check the components and how they work, you need expertise. You know, you can't have a completely non-mechanical person checking timing, checking evap, checking all that stuff.

CHAIR WEISSER: Thank you. Is your comment directed to this issue per se?

MALE VOICE: Yes.

CHAIR WEISSER: Okay, come on up. And then I want to move to going back and talking a little bit about the work of the subcommittees and seeing what we might be able to do to share information and to support the work of the subcommittees.

LARRY: Larry (inaudible), I have a test-and-repair station. There is no difference between a test-only technician and a test-and-repair technician. The test is the same, the training is the same. The difference is with test-and-repair, I've got to be able to (inaudible). The difference to me

between test-only and test-and-repair is the equipment, the technical expertise, the reference material that we have to have. there's a big cost there that test-only doesn't have to have anything like we have to have.

If you're going to lower emissions, which is what ARB is after, then (inaudible) the program, it's that simple. You need cars from way back and way new. That's one reason why (inaudible).

— oOo —

CHAIR WEISSER: Thank you. Before we get additional comments from the public, Larry, what I'd like to do is ask the panel whether there are any things that they'd like to report to the committee and to the public regarding the subcommittees that they're involved in, or whether there are other issues where we might be able to identify support that would be helpful in making progress on the charges that you've been given, or any other things that we might do to facilitate what's going on.

I'm saying that because I'm going to be following it up with a request to our executive officer to prepare for me an outline of the kind of time frame and major milestones for each of the

working groups so I get a better sense not only of the groups that I'm involved in but other groups as to what the major milestone schedule is or what questions they might have or issues they might like to toss up that have come up during their deliberations that they'd like to chat with the committee as a whole?

Mr. DeCota?

MEMBER DECOTA: Mr. Martin and myself had a conference call with Rocky Carlisle, our executive officer, on the 15th on items number one and fourteen.

On number one, I believe (inaudible) preparing an outline of our discussion, but we basically are looking towards doing a pilot as a referee station for about a 90-day period of time. (Inaudible) the effectiveness of preconditioning and (inaudible) issues. So (inaudible) less expensive, would it give us some real hard data in order to study to make a recommendation to the committee.

On number fourteen, to improve station performance (inaudible) emission standards, jump in there.

MR. CARLISLE: Yeah, BAR was working on specific cut points and so that would have some impact on that, but --

MEMBER DECOTA: We're waiting on a report.

MR. CARLISLE: Yeah, we're waiting for that.

Also on the (inaudible) I had with legal counsel, (inaudible) and he's indicated that it would in fact be legal although it does require a statutory change.

CHAIR WEISSER: Excuse me.

MR. CARLISLE: Higher repair cut points.

CHAIR WEISSER: It would require, therefore it's not legal if it would require a statutory change.

MR. CARLISLE: I mean it could you even require it if you had a statutory change, that is the question.

CHAIR WEISSER: Oh, okay. So it would require —

MR. CARLISLE: Right.

CHAIR WEISSER: I sure wish that anybody, and I'm talking to the agencies in particular, that are both experienced in the business side of things and in the consumer protection side of things because of the potential issue of consumers feeling that they're going to be charged for something more than they need. I think that there's an issue here that I'm nervous about it, I can tell you that.

MR. CARLISLE: Well, one of the other concerns too is the fact that at what point does that become (inaudible) cut points apply? In other words, if they go into a pre-inspection they just want to make sure it's going to fail – or pass, and it does in fact fail. Now, they've done their due diligence (inaudible) make sure it was going to pass before they go ahead and test it. It failed and now are they subject to the new cut points or exactly when does that come into play?

CHAIR WEISSER: Okay. Other comments? We'll go first to Jeffrey.

MEMBER WILLIAMS: I have a procedural question. We haven't really looked ahead that someday some of these subcommittees are going to have to make a report. Are you planning a reversal of roles where the subcommittee makes a PowerPoint presentation and gets drilled by the other members of the committee? I just wanted to know what I can look forward to seeing.

CHAIR WEISSER: Yeah, I suspect what would work best is sharing of the information with the full committee of the subcommittee's work, and in fact, I see nothing wrong with sharing preliminary drafts with the full committee in order to initiate, first of all,

thoughts, second of all, questions that they might then return to you so that you could see whether it's an issue that you think you can get into or how you might want to respond to it.

But ultimately, yes, I do think we'll have the subcommittees make some sort of brief oral reports along with a written draft, then we'll have a discussion as a committee of a whole, allow public comments and figure out what we're going to do.

John.

MEMBER HISSERICH: Mr. Carlisle has been working hard on the issue of high mileage vehicles and Mr. Pearman and I have discussed that with him in terms of finding them in the fleet. It's a tricky business. Are they in certain jurisdictions and apparently they aren't in others, so that's tricky.

And I was thinking about it in relation to a comment that one of those people in the audience said and I was a long way away and traveled a lot. There's probably a lot of individuals that have high mileage vehicles, probably the people that commute between the Bay Area and Sacramento on a regular basis or those that come from the Marino Valley into L.A. I don't know how we ever get to those, but there's plenty of



folks putting 40,000 and 50,000. I mean, I know them personally, and it is a challenge but I just have no ready way to figure out how to find them, but it is something of interest.

CHAIR WEISSER: Mr. Carlisle.

MR. CARLISLE: One of the things we've done is (inaudible) in South Coast. I selected 34 municipalities, if you will. With the exception of the City of Los Angeles, most of them keep very poor records and really can't tell you a whole lot about the CAP data other than the fact that (inaudible) licensor. The City of Los Angeles is (inaudible) vehicles, they own about 2600 and each one of them requires an annual Smog Check inspection. So we're continuing that survey to see if we can get some additional information.

The problem with high mileage vehicles, though, probably the only way of doing it is if you rely on VID data, for example, rather than (inaudible) mileage from Smog Check.

CHAIR WEISSER: Thank you.

MEMBER LAMARE: When is that going to happen? If vehicles are exempt for the first four years, potentially the first six years, when does

their mileage ever get recorded? It sounds like there's no way to get a handle on high mileage vehicles.

CHAIR WEISSER: Unless you went through either the insurance company or the local agency licensing authority and required Smog Check as prior to receiving your licensing from a municipality. I'd say there's got to be a way to (inaudible).

MEMBER HISSERICH: Could I just interject? And I'm sorry to go out of order, if I may, but you know, we do these at my work and I think mostly they do an annual survey of how people commute into work every day in terms of gathering those data for the AQMD. I wonder if there's any way to get to those kind of data and see if there's any way to work backwards.

CHAIR WEISSER: I don't think in that regard. AQMD and South Coast Air Quality Management District is much more sophisticated than virtually any other place in the state. My respects to Sacramento, the Bay Area and other fine districts, but they're the largest and they probably collect more data than anyone but the IRS. And then, after all that, they're not authorized to do very much with that data in terms

of these sorts of programs. Those are principally used for ride share purposes.

Mr. Covell.

VICE-CHAIR COVELL: With regard to the subcommittees that I've been involved in, one being determining the cost of program avoidance, that's Gideon and myself, and (inaudible) Rocky. But for the purpose of kind of deciding the framework and parameters for how to go about investigating that activity.

The other committee that I serve with Jeffrey on is a committee to quantify emission reductions and improvement to air quality in the BAR report. This is clearly something that's going to have to rely upon a closeness with what Mr. Cackette was talking about relative to the contracting to consultants to help us evaluate what we need to to determine, number one, was the BAR report correct. If it was, that's one thing. (inaudible) to substantiate that. If not, what further needs to be done to evaluate how (inaudible).

So it's clearly not going to happen without some interaction with consultants and the associated funding (inaudible).

CHAIR WEISSER: Your departure for the green pastures of retirement, Norm, leaves us with a terrible hole in both of these subcommittees that we have to work towards trying to fix up.

Paul?

MEMBER ARNEY: Just an observation. If in fact the budget process makes the sort of change in legislation that takes effect in the next two weeks, that modify some of our assignments (inaudible).

CHAIR WEISSER: Thank you. Dennis DeCota and I find ourselves on a fifth and sixth year and clean screening working group. We'll see.

Jude Lamare.

MEMBER LAMARE: Just a comment about the high mileage vehicles and the issue that that committee (inaudible). The magic word here was the City of Los Angeles requires regulated taxicabs to have Smog Checks and it sounds like there's a lot that could be pursued along that line (inaudible), instead of trying to figure out how we in a statewide program identify high mileage vehicles and bring them into the Smog Check Program just like they were any other kind of eligible vehicle, maybe the way to do this is to identify other sources of authority to require the

Smog Check, and that would be a city regulated and maybe public utilities, fleet vehicles operated by the city, that sort of thing where the Legislature could take on the job of requiring cities to do that.

CHAIR WEISSER: Thank you, Jude.

Bruce?

MEMBER HOTCHKISS: On that same topic, San Francisco (inaudible). I don't know if they still do. They used to require cabs (inaudible) inspection annually. (Inaudible) San Francisco airport (inaudible), and they are the ones that would be enforcing that. Their problem was that they also did some brand new testing but they had (inaudible) equipment failures (inaudible). So that's another agency that might be able to give us some data on high mileage vehicles.

— oOo —

CHAIR WEISSER: Thank you. Ladies and gentlemen, what I'd like to do now is return to the public comment section and ask for Mr. Armstrong to give us his presentation at the first speaker.

Larry, while you're on the way up Norm has something that he wants to share with us.

VICE-CHAIR COVELL: You mentioned the fact that (inaudible) will be created (inaudible). I do know that an associate of mine that runs an air quality management district that qualifies for an appointment has now submitted an application to the Governor's office. My letter to the Governor indicated that this would be my last meeting because of retirement and therefore I'm no longer qualified to fill that position. As I understand it, that application is in the works and (inaudible) by the staff or the chair of the committee would be helpful in (inaudible) to qualify based on the definition in the law to fill this position, so hopefully that will happen in short order.

As I indicated to the chair this morning, I have a medical appointment that I have to leave at 3:30 in order to get to, so I lost five minutes.

CHAIR WEISSER: I feel like we should sing a song or something to commemorate.

VICE-CHAIR COVELL: I'd rather you didn't.

CHAIR WEISSER: Well, Larry, we're looking forward to hearing this. You know I'm going to ask you to stand for one minute, I'm going to read a letter, and I don't want Norm walking out in the

middle of your statement, so we'll let him walk out before you give your statement and go to his doctor's appointment, so hang for 30 seconds.

This is Dan Ru. "The fact that motorists have come back several times to test-only stations is the very reason we have test-only. Before, they would just get fraudulent certificates. Test-and-repair stations don't repair vehicles very well. Test-only stations make certain that vehicles are repaired correctly. The people that can't repair vehicles will continue to complain about test-only.

"As test-only station owner, I myself go to great lengths to consider all aspects of vehicle testing. [interference] before emissions are tested. I get regular test-and-repair station owners complaining because we don't rev up the engines as you would on a TSI test.

"People at test-and-repair stations still don't understand ASM testing procedures. That's another why we have test-only. Test-and-repair stations revving up engines is one of the ways they get them to pass when indeed they will not. This makes many test-and-repair station owners upset.

They're upset because in general they don't know how and can't repair vehicles.

"Quite simply, test-and-repair stations don't usually repair vehicles unless they have to. Test-only stations make test-and-repair stations to actually have to repair vehicles."

Norm, it's been a pleasure and we wish you the very best. I have a feeling that we're going to see you again, sooner rather than later. Take care.

[applause.]

CHAIR WEISSER: Okay. Mr. Armstrong.

MR. ARMSTRONG: Thanks, Mr. Covell, for your participation over the years. I was kind of hoping I was going to get one last shot at you here, but the chairman made sure that that didn't happen. But thanks for all of your participation.

If you would, before you start (inaudible) a very quick comment I was going to make about the comments that are being made on test-only, whether the test was different. I'm going to tell you the test is the same. Almost all of the test-onlys in the Bay Area are new businesses, so they have to have people to operate those businesses and they have to get that either from existing people who already have a job or



they have to select from people that do licensing. So the comment that was made about would you put a brand new pilot in an airplane was appropriate because just for that reason.

And the other reason that it is important is that in testing a car and then never repairing it you don't get the relationship between the fail and the pass, and unless somebody comes back and somehow tells you, you're never going to get that relationship because you never see the results.

So there is a difference, it's a profound difference.

CHAIR WEISSER: Larry, you are on the clock.

MR. ARMSTRONG: I'll just go until I'm done, Mr. Chairman. I'm going to take three minutes and I'm going to go.

I brought with me today some information and it contains a paper from (inaudible) that was prepared by Mr. Bob Klossmeyer and a fellow named Edmund Dixon from (inaudible) Corporation. I know Mr. Klossmeyer, I do not know the other gentleman.

I'm going to skip down. I would hope that you would take the time to read this because what this paper does basically is it exposes all fraudulent

practices that have been involved in the debate between test-and-repair and test-only, it exposes all of that and goes all the way back to 1992, so your predecessors had the ability to get this thing straight a long time ago.

I'm going to read this because I don't want to miss anything. It says, "EPA discounts the emission reductions for (inaudible) I&M programs relative to centralized," and I put in here test-only, "programs. EPA assumes that decentralized I&M programs are less effective primarily because audits of these types of programs have revealed significant quality control problems. Mobile (inaudible) does not allow decentralized programs to claim additional reductions if these problems aren't corrected.

"The State of California conducts massive quality control efforts and believes that the emissions tests are performed correctly 90 percent of the time (inaudible) that include BAR 90 of similar analyzers, real time data transfers to a centralized computer, policing of waivers and retests, increased undercover surveillance and several other activities that are part or will be part of properly operated decentralized I&M programs."

Now, Mr. Klossmeyer is the person that I asked this at their convention in Colorado. I said absent an arbitrary 50 percent discount applied to decentralized programs, how many would be required to go to test-only? The answer, after I asked the same question twice because he didn't really want to answer it was none. Okay. There was never a reason to send anything to test-only.

While federal EPA was later required to stop arbitrarily applying discounts for alternatives, the State of California for whatever reason chose to ignore the opportunity. Today thousands of operators of small businesses that have invested in BAR 97 smog test equipment are having their business potential (inaudible) by a demand that half of consumers meet biennial Smog Checks are mandated to using test-only locations.

There's a simple solution to this. Test-only should be given back to a choice by a consumer. We're supposed to be in a free state and a free county. Let the consumer decide where they want to have their Smog Check. Let the regulators do their job and monitor what's going on and we can have a good Smog Check Program.

I would hope that you'll take the time to read this. I gave you some little cheat notes in there in case you don't have time to read a lot, and there's all of the items that I thought were pertinent you'll see in my little cheat notes behind the front page. Hope you'll take time to read it. It's enlightening. It's been enlightening me for a long time and I hope it will enlighten you.

CHAIR WEISSER: Thank you. Appreciate that. Mr. Trimlett.

MR. TRIMLETT: Len Trimlett. Two things I would love to see. One, if CARB and BAR will look at emission failures and identify failure modes and look at the systematic pattern and find things that were (inaudible) by the dealers or the factories, that would make a big difference. I'd like to ask you to request of CARB and BAR that they do some kind of analysis that gives us something of what could be a recall item, things that come up consistently.

The other thing is I'd make a request that this location here become the permanent location. I think it's much better. I had a lovely ride coming up on Amtrak from Oakland. It's a much more relaxing

ride than (inaudible). I request that this be the permanent location. Thank you.

CHAIR WEISSER: Thank you very much. You know, in that regard, Rocky, it might not be a bad idea to see how we might access this room in order to enhance the opportunity for public participation through webcast and the 800 number which are not available in the DCA room. I don't know what the costs are associated with us using this. I know there are costs that agencies charge each other for these sorts of things, but could you just spend a little time to figure out if that's a possibility?

Thank you, Len, for your comments.

Chris.

While Chris is coming up here, I just wanted to mention to Larry that I can almost assure you that everyone on this committee will be reading with interest your materials.

MR. ERVINE: Chris Ervine with STARS. First, I'd like to apologize for being a little bit passionate about the smog program. Mainly because (inaudible) the Smog Check Program in the State of California is test-and-repair stations.

I'd like to make one comment here to the e-mail that you just received. The gentleman said that we should not precondition vehicles by raising the rpm above idle. As a matter of fact, the smog machine directs you to take the vehicle up to 15 and 25 miles an hour to determine the proper gear and rpm range, and a lot of the test-only stations and a lot of other stations as well are not doing that.

I have a question. How many of you up there would be willing to invest in a stock that once you've invested a considerable amount of money is (inaudible) to somebody as insider information and manipulating price of the stock down to zero? The reason I ask this is because this is exactly what has happened in the Smog Check Program since its inception in '97, and the test-and-repair industry (inaudible). The test-and-repair industry are the ones that are reducing emissions in the State of California, and we are (inaudible) loss of income. In shop after shop I talk to there seems to be a 90 percent increase in the number of initial tests of the Smog Check Program. This isn't counting any repairs or anything, this is only smog test.

What that has meant to me in my own shop is last year I lost \$100,000 in gross revenue. That's 20 percent of gross revenue and sales in my business, and I don't know how many businesses can afford to take a 20 percent hit and still survive. It also meant that I had to lay off a technician, so now somebody's out of work and he's probably working in a test-only.

This is a problem that needs to be addressed soon. I've seen the same problem happen over in the Bay Area. Business people buy into the program over there and now they're finding out that the number of tests that they're doing are way down from what they expected. I would like to see the IMRC renew this early as possible a meeting that they can arrange about the directing of vehicles from test-and-repair to test-only. Thank you.

CHAIR WEISSER: Thank you, Chris. Are there any other comments from members of the audience? Mr. Peters.

MR. PETERS: Thank you, Mr. Chairman, committee. I found comments here today quite interesting (inaudible). Mr. Larry Armstrong (inaudible). I found that to be a very interesting

comment and (inaudible) most all of them will get invalid information (inaudible).

In the same token, I just wanted to let you know in 1980 the State of California put in an annual centralize program. (inaudible) the Air Resources Board would not (inaudible). So it is my opinion (inaudible) evaluation as to whether or not test-only (inaudible) and (inaudible) in my opinion (inaudible).

CHAIR WEISSER: Thank you, Charlie. Any further comments? Sir, please come up.

MALE VOICE: (Inaudible) Everybody that goes to test-only (inaudible) test-and-repair. Then we'll have a lot less jumping back and forth between test-only and test-and-repair (inaudible) how the test should be ran and so forth. (Inaudible) I can probably answer all of your questions (inaudible). Fire away.

CHAIR WEISSER: Does anybody have any question they'd like to put forward? No? Bruce?

MEMBER HOTCHKISS: (Inaudible) failure rate. What is your explanation for why there's a different failure rate (inaudible)?

MALE VOICE: At the test-only when the car comes in we (inaudible). There isn't any warming up



of the vehicle. They drove it there. Unless you live across the street, you drove it in and more than likely it's probably warm. (Inaudible)

How long would it take for a car to achieve that? You tell me. Hour? Five minutes? It would probably take a couple miles. (Inaudible)

CHAIR WEISSER: Okay, are there other reasons that you think that might exist for -

MALE VOICE: Somewhere in the law, I don't have one right in front of me or I'd find it for you, it says for test-only, I don't know about repair shops, but we're not allowed to precondition the vehicles. Only test it as is. That doesn't mean (inaudible) or warm it up for five minutes or anything like that. If it fails the first portion of the test, meaning the (inaudible), then it (inaudible).

If it fails (inaudible) test, the test is over as far as the test-only shop is concerned. We don't care if it passes, we don't care if it fails. We get paid the same way. When you think about it, (inaudible). Somebody else has to worry about the repairs.

CHAIR WEISSER: Do you also own test-and-repair stations?

MALE VOICE: No, I do not (inaudible).

CHAIR WEISSER: And after recommending that we shut the test-only down you are prepared to go home tonight?

MALE VOICE: Oh, sure. I'm not concerned about it a bit. Seriously. If you close the test-only program tomorrow morning, the next day I would be in a test-and-repair facility. Guaranteed.

CHAIR WEISSER: Well, thank you very much.

MALE VOICE: (Inaudible) and so does everybody else. (Inaudible)

CHAIR WEISSER: Mr. Amlin.

MR. AMLIN: Mr. Chairman and committee members. Earlier there was a discussion about what analysis you're going to be doing (inaudible) and things like that (inaudible) I'll just go ahead and offer some observations and some suggestions.

A lot of analysis that we did (inaudible) most of the work was done by Sierra Research or by BAR and ARB. A lot of (inaudible) technical aspects. I think the things that might be of most interest are things like (inaudible) and things like that. (Inaudible). Some of the things are pretty simple, like testing old cars more often, we get more

reductions (inaudible). A couple things like the OBD section we decided (inaudible) separately. Just a reminder that those are (inaudible) that if you go ahead and try to pile all these things on one plate and get all of them done, it would be difficult (inaudible).

I think (inaudible) Legislature (inaudible). Certainly (inaudible) one of the things you'll be looking at is (inaudible) and (inaudible) we've been doing some analysis on that (inaudible) bite off more than you can chew (inaudible).

CHAIR WEISSER: Thanks for sharing your suggestions. I have an e-mail that we've received and I want to read into the record. This is from Bob Cooley.

"I'm glad to have an opportunity to express my concern over the Smog Check Program as it exists today. I am the owner of a small smog and repair facility and a witness (inaudible) being allowed to be served by smog and repair facilities. Currently there is at least 50 percent being directed to test-only stations and in some areas of the state as much as 80 percent. Obviously this (inaudible) to the test-and-repair operators.

"Additional, my opinion is this also leaves the field wide open for those test-only operators that maybe ethically challenged to take advantage of the consumer. There is absolutely no motivation for such people to pass a consumer's vehicle. Once they have failed and had their vehicle repaired they are directed back to the original test-only station and once again charged to get the vehicle to pass.

"Also, it should be obvious (inaudible) the lost revenue for test-and-repair but by a much higher than average advertising and marketing monies to try and compete for what's left for us. Not so for the test-only. I firmly believe that this is totally inequitable for small business owners as well as the consumer. I further think that if the consumer were truly informed of the situation they would be an incensed as I am. I believe in the smog inspection program so that future generations will enjoy clean air, but these inadequacies must be addressed."

Rocky, did you have something you wanted to share with us?

MR. CARLISLE: I just wanted to clarify (inaudible) and (inaudible) two-speed idle test does not necessarily do that, so (inaudible) 2500 rpm

(inaudible), and that is a significant difference between (inaudible).

CHAIR WEISSER: Thank you. Any other further comments from the audience? Anybody on the 800 number?

MALE VOICE: Yes, there is.

CHAIR WEISSER: Sir, could you identify yourself?

MALE VOICE: Yes, (inaudible) again with Glenmore Auto Repair. (inaudible) the smog program all technicians and shops (inaudible) test-and-repair and test-only, all of us are trying to clean up the air. I would just like to say that we would like to do it on a level playing field.

I open up my window here, and 20 or 30 years ago there was purple haze up in the atmosphere. Now it's clean, so (inaudible). But what we're doing wrong is we've taken (inaudible) away. Like I say, (inaudible) smog today for the (inaudible). Those are my major (inaudible) that I've spent 30 years in building a business. And believe me, I have a daughter and a son that I love dearly and I want them to breathe clean air, so if your car comes in and it doesn't pass, you're still not going to pass

(inaudible), because I don't believe in (inaudible). But I also believe in my country and (inaudible). I applaud him for that.

Also, in even conversation with anybody on this planet with my abilities and my skills, but I did not go against the state government when they set up a (inaudible) program where you tell my customers they can no longer come to me. Now, (inaudible) go back and take a course in college (inaudible) because this is a socialistic program, you have taken my customers, and I have did nothing wrong and I'm the one who's suffering from it. So when you pull out people to suffer, be ready for repercussions because we will do what we have to do to stay in business. If I have to (inaudible) in front of my business to make my point so that I can feed my family and keep a place to live because you've taken it away from me, I don't think (inaudible) is a good guy, and I don't think even Arnold would go for this.

CHAIR WEISSER: Thank you very much.

MALE VOICE: I would like to see the committee do the right thing, because it doesn't do me any good (inaudible) except that you have to know that there are other people out there that feel the same

way, that are angry about their business and trying to make a living, and when the government gets them to the point that they can't see that they're doing it, we have big problems with this country.

CHAIR WEISSER: Thank you very much.

MALE VOICE: Thank you also.

CHAIR WEISSER: Mr. Armstrong, you had your hand up and you'll be our last comment for the day.

MR. ARMSTRONG: I'll be very brief. There seems to be some money going around for research into Smog Check so I've got this quarter here that I'm willing to donate and somebody can call a fellow named Tom Wenzel who was a consultant to the I&M committee in the past and I've provided the information to you folks if somebody wants to talk to him. He's stated on several occasions that when you compare same year vehicle to same year vehicle, that the vehicles failed at the same rate at either test-and-repair or test-only. That's a pretty heavy duty statement and nobody seems to want to jump up on that one, but I got this quarter (inaudible).

CHAIR WEISSER: Thank you, Mr. Armstrong.

MEMBER LAMARE: Motion to adjourn.

CHAIR WEISSER: We have a motion from Ms. Lamare to adjourn the meeting. Is there a second?

MEMBER HOTCHKISS: Second.

CHAIR WEISSER: John seconds. Any discussion? All in favor please signify by saying aye.

IN UNISON: Aye.

CHAIR WEISSER: Any opposed? The meeting is adjourned.

**(Hearing Adjourned)**

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Dated July 15, 2004.

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TERRI HARPER, Lead Transcriber  
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